 <p>Capilano Students' Union</p>	<b>Policy No.</b>	<b>Approval Authority</b>
	HR-12	Board of Directors
	<b>Policy Name</b>	<b>Approval Date</b>
	<b>Sexual and Gender-based Violence</b>	<b>Sept. 1, 2023</b>
	<b>Responsible</b>	<b>Scheduled Review</b>
	Executive Director	3 years

## Purpose

The purpose of this policy is to set out how the Capilano Students' Union prevents and addresses sexual and gender-based violence in the workplace and at organizational events and activities, supports survivors of sexual and gender-based violence, and supports building a culture of consent, trust, and accountability.

## Scope

This policy applies to all Capilano Students' Union members (including student executives, board members, and volunteers), employees, contractors, and visitors of the Capilano Students' Union and applies in both in-office, remote, and digital workplaces, at student events and activities organized by the Capilano Students' Union, and at social situations related to work (e.g., staff/board socials and unofficial after-work hangouts).


## Definitions

In this policy,

**“affirmative consent”** means that a person is able to freely choose between two options: “yes” and “no,” meaning there must be an understandable exchange of affirmative words indicating a willingness to participate in mutually agreed upon sexual activity; the fact that consent was given in the past to a sexual or dating relationship does not mean that consent exists for any future sexual activity.

**“sexual and gender-based violence”** means any unwanted sexual act or any act targeting a person’s sex, sexual identity, gender identity or expression, whether physical, psychological, or verbal in nature, and that is committed, attempted, or threatened against a person; sexual and gender-based violence includes:


- a. Any sexual offence or sexual assault under the *Criminal Code*.
- b. Sexual contact without consent.
- c. Sexual harassment or unwelcome sexual conduct or comments.
- d. Exposure in a sexual context or for a sexual purpose without consent.

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- e. Photographing or video-recording someone in a context where that person would have a reasonable expectation of privacy and where the recording is done in a sexual context or for a sexual purpose.
- f. Distributing sexual photographs or videos of a person without consent.

## Principles


1. **Affirmative Consent and Consent Culture:** The Capilano Students' Union adopts the principle of affirmative consent in all sexual activities as described in the [Our Turn National Action Plan](#) (Students' Society of McGill University, 2020). It is the responsibility of the person initiating or engaging in sexual activity to obtain clear and affirmative responses at all stages of sexual engagement.
  - a. Consent for sexual activity does not exist when:
    - i. The agreement is expressed by anyone other than the individuals involved in the sexual activity (for example, by a friend or partner).
    - ii. A person is incapable of consenting to the sexual activity.
    - iii. A person abuses a position of trust, power, or authority to coerce another person into consenting to sexual activity.
    - iv. A person expresses, with words, actions, or conduct, reluctance or a lack of affirmative agreement to engage in the sexual activity.
    - v. A person, having already consented to engage in the sexual activity, expresses, with words, actions, or conduct, reluctance or a lack of affirmative agreement to continue to engage in the sexual activity.
  - b. Silence or non-communication must never be interpreted as consent to engage in sexual activity, and a person who is in a diminished state of judgment or capacity cannot consent to sexual activity. In addition:
    - i. A person is unable to give consent to sexual activity if they are asleep, unconscious, or otherwise unable to communicate.

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- ii. A person who has been threatened or coerced into engaging in the sexual activity is unable to consent to sexual activity.
- iii. A person who is drugged is unable to consent to sexual activity.
- iv. Consent is not obtained if any person is incapacitated due to the consumption of alcohol or drugs, and any sexual activity involving alcohol or drugs requires the standard of affirmative consent; the use of alcohol or drugs by an individual never implies consent, and should not be assumed to have played a role in causing a survivor's experience of sexual or gender-based violence; and the use of alcohol or drugs never excuses a perpetrator's actions.
- v. A person's profession does not impact their ability to provide consent or withdraw consent and, in particular, people engaging in sex work and sex economies maintain full autonomy over their bodies and the ability to consent or not consent to any form of sexual activity; however, this is distinct from "sex trafficking," which is a criminal act under which consent can never be obtained.
- vi. Recognizing the intersection of consent and ability, it is extremely important to determine how consent will be established or withdrawn in advance when a person has a disability that could limit verbal or physical means of interaction.


**2. Zero Tolerance:** The Capilano Students' Union has zero tolerance for any form of sexual and gender-based violence, for inaction in response to sexual and gender-based violence, and for retaliation against individuals who disclose, report, or witness sexual and gender-based violence.

**3. Comprehensive, Survivor-centred, and Trauma-informed:** The Capilano Students' Union is committed to a comprehensive, survivor-centred, and trauma-informed approach to education and prevention respecting sexual and gender-based violence, with a focus on ensuring that survivors of sexual and

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gender-based violence have choice, agency, and respect in how they choose to pursue violations of this policy. Examples of this approach include:


- a. We strictly prohibit asking questions about a complainant’s sexual history at any point in a disclosure or complaint process under this policy.
  - b. We will not require a complainant to have in-person, face-to-face interactions with a respondent; where interaction is required to ensure that we are meeting our obligation to provide procedural fairness, this can be achieved using a video-conferencing platform.
  - c. We will provide every person who has a role in hearing or deciding outcomes of sexual and gender-based violence complaints with sensitivity training on trauma-informed approaches before they start that work.
  - d. A complainant is welcome to engage (or not engage) external agencies such as law enforcement or the human rights tribunal on a matter that has also been disclosed or reported, and external engagements have no bearing on how we navigate a disclosure or report.
  - e. A complainant is welcome to have a support person of their choosing present throughout the disclosure, reporting, investigation, and decision-making process under this policy.
  - f. References to “confidentiality” in this policy refer to the obligations of the Capilano Students’ Union, including external investigators appointed under this policy, to keep information confidential; these references are not intended to limit the ability or agency of a complainant to discuss experiences of sexual or gender-based violence.
- 4. Intersectionality:** The Capilano Students’ Union recognizes and supports an intersectional approach to addressing sexual violence. We acknowledge that a person’s experiences are affected by privilege, sex, gender identity and expression, sexual orientation, race, colour, age, family status, religion, faith, ability, national or ethnic origin, indigeneity, immigration status, socio-economic status, class, language, and other personal characteristics.

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- 5. Awareness and Prevention:** The Capilano Students' Union is committed to improving awareness around and prevention of sexual violence, including by:
- a. Requiring that all employees complete sexual and gender-based violence prevention training within 14 days of the start of employment.
  - b. Requiring that all student executives, board members, and members of the appeal panel have completed sexual and gender-based violence prevention training within one month of election or appointment.
  - c. Authorizing designated recipients of disclosures and reports under this policy to receive anonymous information about acts of sexual violence committed by university officials, and to forward that information, with the survivor's consent, to the appropriate university authorities; while this provides an alternative mechanism through which to make the university aware of harm, this mechanism does not start a complaint process.
  - d. Budgeting dedicated resources in the organization's annual operating budgets for sexual and gender-based violence awareness programming.
  - e. Making sexual and gender-based violence training and resources available to clubs, constituency associations, and student associations, and managing disclosures, reports, and support in cases of incidents of sexual and gender-based violence that occur at student club and group activities that are not within the university's jurisdiction.

## Recourse

- 1. Disclosure:** A person may communicate information to the Capilano Students' Union about incidents of sexual and gender-based violence to access support services, resources, or assistance, without necessarily making a formal report or starting an investigation. A disclosure is kept confidential by the Capilano Students' Union, and the disclosing person's privacy is a top priority.


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- a. A disclosure may be made to the executive director, the president, or any other additional recipient(s) designated by the executive director, and contact information for these recipients must be posted prominently.
  - b. The number of additional recipients is determined on a regular basis by the executive director, in consultation with the vice-president equity and sustainability, to ensure there are recipients available in an appropriate number of genders, identities, and lived experiences.
  - c. In recognition of the disproportionate impact of sexual and gender-based violence on Indigenous peoples, the executive director must ensure that at least one of the additional recipients is an Indigenous recipient.
  - d. The executive director must ensure that the organization maintains a third-party reporting mechanism through which a person may make disclosures of sexual and gender-based violence anonymously.
- 2. Report:** A person may make formal reports of sexual and gender-based violence to any of the above disclosure recipients. When a formal report has been made, the recipient must engage a decision-maker as follows:
- a. If the respondent is an employee of the Capilano Students' Union, or any member of the Capilano Students' Union other than student executives or board members, a report may be made to the executive director (or, in the case of a report against the executive director, the president).
  - b. If the respondent is the executive director, a student executive, or a board member, a report may be made to the president (or, in the case of a report against the president, the vice-president finance and services).
  - c. If the circumstances of a report are such that immediate accommodations are required for the safety and comfort of the complainant, then the executive director must order any necessary accommodations within 48 hours of receiving the report.
  - d. After a report has been received, the report's decision-maker must assign an investigator. Depending on the circumstances, this might be the

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executive director, a student executive, or an external investigator. An external investigator must be engaged if requested by a complainant.

3. **Investigation:** Before an assigned investigator begins an investigation, they must advise the complainant of the investigation process; the potential disciplinary measures that might be taken against the respondent; and of the support services, resources, and assistance available to them. An investigation must not be conducted without the consent of the complainant. If an investigation is undertaken, it must be conducted in accordance with the following principles:
  - a. An assigned investigator is required to be neutral and impartial.
  - b. An investigation is expected to conclude within 30 days of the date that the report was made; if the assigned investigator believes that this timeframe is unworkable due to extenuating circumstances, then the assigned investigator may extend this timeframe by up to an additional 14 days, and advise the complainant and the respondent of the extension.
  - c. Once the investigation has concluded, the assigned investigator must prepare an investigation report that includes their conclusion on whether or not, on the balance of probabilities, sexual and gender-based violence has occurred and, if so, any recommended sanctions.
  - d. An investigation must not be suspended or stopped just because the respondent ends their relationship with the Capilano Students' Union (such as through resignation, graduation, or leaving the university).
  - e. The investigation report must be provided to the report's decision-maker.
4. **Decision:** The report's decision-maker must make a decision, within 14 days of receiving the investigator's report, on whether to impose the recommended sanctions, impose alternate sanctions, or impose no sanctions..
  - a. In the case of discipline against a student executive, a board member, or the executive director, any sanctions must be approved by the board of directors (and any parties to the complaint must recuse themselves).

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- b. Save and except for those forms of discipline reserved for board or membership decisions in the bylaws, the board delegates to the executive director the authority to approve disciplinary measures against members of the Capilano Students' Union (other than student executives and board members) to the extent that is necessary to protect the health and safety of members and employees of the Capilano Students' Union.
  - c. Any sanctions arising from complaints of sexual and gender-based violence must be reported to both the complainant and respondent.
- 5. Representation:** For greater certainty, both complainants and respondents, in the case that they are employees covered by a collective agreement, are entitled to union representation throughout the disclosure, reporting, investigation, and decision-making process under this policy.
- 6. Appeal:** A complainant or respondent may appeal the final decision on an investigator's report (including sanctions) by written request to the vice-president equity and sustainability (or if the vice-president equity and sustainability is a party to the complaint then the president) within 21 days of the original decision. The following procedures apply to appeals of decisions under this policy:
- a. An appeal must include the reasons for the appeal and why the appeal should be granted, supporting arguments, and the requested outcome.
  - b. An appeal must demonstrate either that significant new information is now available that could not have been provided to or considered by the decision-maker, or that a fundamental procedural error has occurred that biased the decision process against the person making the appeal.
  - c. On receiving an appeal, the vice-president equity and sustainability must convene an appeal panel to make a decision within 14 days. While the panel's decision on the appeal is final for internal purposes, this does not prevent a complainant from seeking external options such as from law enforcement or the human rights tribunal.



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- d. An appeal panel must consist of the vice-president equity and sustainability (or designate), the chair of the governance committee (or designate), and an external community member or alumnus with sexual violence expertise to chair meetings of the panel.
- e. For a sanction against a student executive, a board member, or the executive director, an appeal decision that changes, revokes, or adds a sanction must be recommended to and approved by the board.

### Delegation

The board delegates the administration of this policy, and the authority to create procedures and programs to support and advance this policy, to the executive director.

### Review and Monitoring

The executive committee monitors compliance with this policy and is responsible for reviewing this policy and recommending necessary updates to the board after one year in force and then after that once every three years.

### Related Laws, Policies, and Procedures

- [Workers Compensation Act, RSBC 1996, c. 492](#)
- [Occupational Health and Safety Regulation](#)
- [Harassment-free Workplace Policy](#) (Capilano Students' Union)
- [Employee Standard of Conduct Policy](#) (Capilano Students' Union)