



Policy against Sexual Assault

1. Zero Tolerance

1.01 Mount Saint Vincent University has zero tolerance for sexual assault. The Mount is committed to providing and maintaining a safe environment that promotes the dignity and well-being of the University community. The University has a strong tradition of social responsibility.

2. Principles

2.01 Relationships within the Mount community are built on respect, dignity and integrity.

2.02 Sexual assault is a violation of the dignity and integrity of the victim.

2.03 The University encourages any member of the Mount community, who is the victim of a sexual assault or who has witnessed a sexual assault, to disclose what has happened.

2.04 When a disclosure of sexual assault is made, the safety, security and well-being of the victim are fundamental considerations. A disclosure of sexual assault does not constitute a report for the purpose of investigation, which may result in disciplinary action, as described in sections 6 through 12 of this Policy.

2.05 A member of the Mount community who is found to have committed a sexual assault will be held accountable by the University.

2.06 All investigations and procedures shall be conducted in a fair and equitable manner.

3. Scope and Application

3.01 This Policy applies to all members of the Mount community in their interaction with other members of the Mount community. The Mount community includes all individuals who study, work, teach, instruct, conduct research, administrate, supervise, volunteer, or provide resources, services or support to the University or otherwise engage in University activities, including activities of a student group or organization of the University, on or off campus.

3.02 The Mount has other policies relevant to the conduct of sexual assault, including the Harassment and Discrimination Policy and the Student Non-Academic Discipline Policy. The procedures under this Policy may supersede the procedures of such other policies.

3.03 Any member of the Mount Community may report a sexual assault for the purpose of investigation, which may result in disciplinary action.

3.04 This Policy applies to all disclosures and reports of sexual assault.

4. Sexual Assault

4.01 Sexual assault is any sexual activity without consent. Sexual assault may include kissing, fondling, touching, oral, or anal sex, vaginal intercourse or other forms of penetration, without consent.

4.02 Sexual assault may be committed by a person of any gender against a person of any gender.

4.03 Sexual harassment may or may not include sexual assault. An allegation of sexual harassment that does not include sexual assault may be addressed under the Harassment and Discrimination Policy, the Student Non-Academic Discipline Policy, applicable Collective Agreements, and/or other relevant documents and processes.

5. Sexual Consent

5.01 Consent is a voluntary, willing and coherent agreement to engage in a specific sexual activity. There is no consent when a person expresses, by words or conduct, a lack of agreement to engage, or continue to engage, in sexual activity.

5.02 A person who is asleep or unconscious is incapable of consenting to sexual activity.

5.03 A person may be incapable of consenting to sexual activity when under the influence of alcohol and/or drugs.

5.04 A person may be incapable of consenting to sexual activity when there is an imbalance of power and/or authority, or when one person is in a position of trust.

6. Report of Sexual Assault for the Purpose of Investigation

6.01 A victim of sexual assault will be treated with dignity and respect.

6.02 A report of sexual assault for the purpose of investigation may be made to any employee of the Mount community. This includes any of the following:

- Manager, Security and Safety,
- Student Services – Residence Life Manager, Don on Duty or Residence Assistant,
- Manager Health Services,
- Student Services – Coordinator of Counselling or any Counsellor,
- Harassment & Discrimination Advisor,
- Associate Vice President, Student Experience,
- Director, Human Resources,
- Dean of Graduate & Professional Studies,
- Dean of Arts & Science, or
- Dean of Education.

6.03 A victim of sexual assault will be given information and assistance to receive medical care, safe haven, counselling, and other supports. A victim of sexual assault has the right to decide whether and when to access any of the available services and supports.

- 6.04 A report of sexual assault, for the purpose of investigation, alleged to have been committed by a student shall be referred to the Associate Vice President, Student Services. Section 10 of this Policy describes the procedures following such a report.
- 6.05 A report of sexual assault, for the purpose of investigation, alleged to have been committed by staff shall be referred to the Director, Human Resources, who will refer the report to the appropriate senior administrator. Section 11 of this Policy describes the procedures following such a report.
- 6.06 A report of sexual assault, for the purpose of investigation, alleged to have been committed by faculty shall be referred to the applicable Dean or University Librarian. Section 11 of this Policy describes the procedures following such a report.
- 6.07 Any employee to whom a report of sexual assault is made, for the purpose of investigation, will recuse themselves from the matter due to any conflict of interest, and may recuse themselves for other reasons. Any such employee will immediately refer the report of sexual assault to an appropriate alternate.
- 6.08 Any employee to whom a report of sexual assault is made may consult with appropriate experts.
- 6.09 Any investigation of a report of sexual assault may result in disciplinary action.

7. Investigation and Interim Measures

- 7.01 Sexual assault is an offence under the Criminal Code of Canada. Any member of the Mount community may report a sexual assault to the police.
- 7.02 Where criminal proceedings and/or civil proceedings external to the University are initiated due to a report of sexual assault, the University may conduct its own independent investigation as set out in this Policy, and will make its own determinations of culpability and appropriate consequences.
- 7.03 In certain circumstances, interim measures may be necessary to ensure the safety, security and well-being of the victim, any witness to the sexual assault, and/or any member of the University community. Interim measures include, but are not limited to, moving an individual from one or more specified locations, restricting access to part or all of the University campus, and imposing appropriate conditions.
- 7.04 Interim measures are precautionary and shall not be considered disciplinary. However, any violation of an interim measure may be subject to disciplinary action.

8. Confidentiality and Limitation

- 8.01 All persons involved in a report of sexual assault are expected to maintain confidentiality, unless disclosure of information is required by law or to carry out response procedures.
- 8.02 The University retains the right to conduct an internal investigation and/or request the police to initiate a criminal investigation, even without the consent of the victim, where, in the University's

opinion, such action is necessary to ensure the health and safety of the community. The victim has the right to decide whether to participate in an investigation.

9. Supports and Resources

- 9.01 A victim of sexual assault will be provided with immediate and ongoing opportunities for counselling. Different supports, services and resources may be required at different stages following a sexual assault. A victim will be given information about, and assistance in obtaining, campus and community supports and resources.
- 9.02 The University has established protocols, and works with external agencies, as required, to respond to sexual assault, to ensure safety, security and well-being of the victim and the Mount community. For more information on resources, please visit www.msvu.ca/sexualassault.

10. Procedures Following Report of Sexual Assault Allegedly Committed by a Student

- 10.01 Sexual assault by a student is a violation of this Policy and the Student Charter of Rights and Responsibilities forming part of the Student Non-Academic Discipline Policy. Sexual assault is a serious offence.
- 10.02 The Associate Vice President, Student Experience, or designate, will cause an investigation of a report of sexual assault alleged to have been committed by a student, in accordance with the Student Non-Academic Discipline Policy. This includes a meeting with the student against whom the allegation is made. Prior to this meeting, the student will be informed of the right to have a representative or support person present at the meeting.
- 10.03 When a student accepts responsibility for having committed a sexual assault, the Associate Vice President, Student Services, may determine the appropriate sanction(s) without referral to the Student Judicial Committee, including any sanction(s) under Section 6.0 of the Student Non-Academic Discipline Policy and/or any other appropriate sanction(s), such as counselling, educational sessions and community service.
- 10.04 When a student denies or does not accept responsibility for having committed a sexual assault, the report of sexual assault shall proceed as a complaint through the formal judicial process under the Student Non-Academic Discipline Policy, with the following modifications:
- a) The victim may participate at a hearing of the Student Judicial Committee and/or Student Discipline Appeals Committee in person or may choose to participate from a separate approved location by video and/or audio conferencing.
 - b) In addition to an advocate, either the victim or the respondent may be accompanied by a support person.
 - c) To protect the privacy and confidentiality of the process, the Student Judicial Committee and/or the Student Discipline Appeals Committee may hold a hearing in camera, with no access to members of the public.
 - d) The Student Judicial Committee and/or Student Discipline Appeals Committee may consult with appropriate experts.

- e) One or more regular members of the Student Judicial Committee and/or Student Discipline Appeals Committee will recuse themselves from the hearing due to any conflict of interest, and may recuse themselves for other reasons. In that event, individuals from a list of qualified, available and willing persons external to the University, with adjudicative experience, will be selected by the Student Judicial Committee and/or the Student Discipline Appeals Committee for the purposes of the hearing.

For further information on the hearing procedures, consult the Student Non-Academic Discipline Policy.

10.05 The decision of the Associate Vice President, Student Experience, Student Judicial Committee and/or Student Discipline Appeals Committee, as applicable, including any sanction(s), shall be communicated in writing to both the victim and the student who is alleged to have committed a sexual assault.

10.06 All procedures under this section shall be conducted in a timely manner.

11. Procedures Following Report of Sexual Assault Allegedly Committed by Staff or Faculty

11.01 Sexual assault by staff or faculty is a violation of this Policy, the Harassment and Discrimination Policy, the applicable Collective Agreement, and/or other relevant documents governing conduct within the University community. Sexual assault is a serious offence.

11.02 A report of sexual assault alleged to have been committed by staff or faculty who is a member of a bargaining unit shall be investigated in accordance with the provisions of the applicable Collective Agreement and may result in disciplinary action.

11.03 A report of sexual assault alleged to have been committed by staff or faculty who is not a member of a bargaining unit shall be investigated in accordance with the procedures and provisions concerning the applicable employee group and may result in disciplinary action.

11.04 The Dean, University Librarian and/or senior administrator, as applicable, will recuse themselves from investigating a report of sexual assault due to any conflict of interest, and may recuse themselves for other reasons. In that event, an alternate person will investigate the report of sexual assault, as determined by the applicable Collective Agreement or governing document.

11.05 The Dean, University Librarian and/or senior administrator, or alternate, as applicable, may consult with appropriate experts.

11.06 The result of the investigation, including any disciplinary action, shall be communicated in writing to both the victim and the staff or faculty who is alleged to have committed the sexual assault.

12. Protection from Reprisal or Threat of Reprisal

12.01 Any member of the University community who retaliates, engages in reprisals and/or threatens to retaliate against a victim, witness, or any member of the University community, for having disclosed a sexual assault, reported a sexual assault, or participated or cooperated in any investigation of a report of sexual assault, may be subject to disciplinary action.

13. Education and Information

- 13.01 The University will continue to provide programming for students to address sexual health awareness and violence prevention, including campaigns, information sessions and training. This programming will be introduced during orientation sessions for new students and continue on an ongoing basis.
- 13.02 The University will continue to provide training opportunities for all members of the Mount community to increase awareness and prevention of sexual assault, and to facilitate supportive responses to victims of sexual assault. This training will include information about campus and community supports and resources for victims of sexual assault.
- 13.03 Education and information about sexual assault, policies, supports and resources will be broadly available to all members of the Mount community, by electronic and other media and means.
- 13.04 The Harassment & Discrimination Advisor will maintain a record of the investigated reports of sexual assault on an annual basis. Information relating to the identity of individuals will not form part of this record.

Acknowledgments

Mount Saint Vincent University acknowledges the following documents assisted in the development of this Policy:

- Ontario Women's Directorate, *Developing a Response to Sexual Violence: A Resource Guide for Ontario's Colleges and Universities*, January 2013
http://www.women.gov.on.ca/owd/docs/campus_guide.pdf
- Colleges Ontario, Draft Sexual Assault and Sexual Violence Policy and Protocol Template, January 28, 2015
http://collegesontario.org/policy-positions/health/CO_DraftSexualAssaultPolicyAndProtocolTemplate.pdf

Approved by the HRGC: June 5, 2015

Approved by the Board of Governors: June 25, 2015

Approved by the HRGC: March 19, 2018

Approved by the Board of Governors: April 18, 2018