

Checklist for Post-Secondary Institutional Policies on Sexual Violence and Harassment

GENERAL

Your institution's policy should:

- Be survivor-centric and trauma-informed
- Be inclusive and intersectional
- Be culturally sensitive
- Be accessible and written in plain language
- Define consent

SCOPE

Your institution's policy should:

- Apply to every member of the community, including students, faculty, staff, contractors, visitors, alumni and former staff
- Clearly spell out what kinds of incidents and behaviours are covered and should include the full spectrum of sexual violence and harassment
- Cover all incidents that can affect someone's ability to work or learn as part of this post-secondary community, regardless of whether they happened on-campus, off-campus at a school event, at a work placement or practicum, or online
- Clearly state that the policy does not supersede collective agreements

Your institution's policy should not:

- Have time restraints or a statute of limitations

RESPONDING TO SEXUAL VIOLENCE AND HARASSMENT

Conflict of interest

Your institution's policy should:

- Acknowledge that there are situations in which the person who normally has responsibility for oversight of the policy should not be involved in investigating or responding to an incident of sexual violence and harassment due to conflict of interest or a close relationship with the respondent

Disclosure and reporting

Your institution's policy should:

- Allow for disclosure to any member of the post-secondary community by providing clear guidance to faculty, staff and students on how to respond if someone discloses an incident of sexual violence or harassment to them
- Outline a clear process for reporting incidents including who receives reports and how they must be made
- Allow for third party reports but clearly spell out how third-party reports will be dealt with
- Allow for anonymous reports but clearly spell out how anonymous reports will be dealt with
- Offer multiple options and clear guidance to all complainants about what happens once a report has been made
- Identify how a respondent is to be informed once a report has been made involving them

Your institutional policy should not:

- Treat third party and anonymous reports the same way that it treats reports by a survivor

INTERIM MEASURES

Your institution's policy should:

- Provide for the use of interim measures to protect survivors and to safeguard the campus community while an investigation or other procedure is taking place
- Clearly state that interim measures are about community safety and not about discipline
- Allow for interim measures to be implemented even if a formal report is not filed
- Identify who decides what interim measures will be applied and what the criteria are for determining interim measures
- Explain how respondents will be notified
- Identify what happens if interim measures are violated
- Provide a timeline for the review of interim measures and state who will be responsible for conducting the review

INVESTIGATIONS, ADJUDICATION, AND SANCTIONS

Your institution's policy should:

- Explain who will be responsible for an institutional investigation, how an investigator will be selected, and what the mandate of the investigator will be
- Require all investigators to be culturally competent and trauma-informed
- Explain what kinds of documents and evidence will be collected during the investigation, how they will be stored, and how long they will be stored
- Identify what the rights of the complainant and the respondent are at each stage of the process, particularly with regard to procedural fairness
- Clearly state that both respondents and complainants have the right to be represented during the investigation and adjudication process, including representation by their union
- Offer alternatives to face-to-face meetings between the complainant and respondent and other measures to reduce barriers to participation for the complainant
- Identify what measures are available to ensure accessibility such as translation or assistive devices
- Identify who will receive a copy of the investigator's report and what information will be made available to parties who do not receive a full copy of the report
- Identify who is responsible for deciding if the policy has been breached and what sanctions, if any, will be imposed

Your institution's policy should not:

- Allow for sanctions against a complainant if a complaint is not substantiated
- Put an institutional investigation on hold if the complainant chooses to pursue another process simultaneously

APPEALS

Your institution's policy should:

- Allow both complainant and respondent to appeal a decision
- Clearly state the grounds for granting an appeal
- Allow the appeal to consider new evidence that has only just come to light rather than simply reviewing the evidence put forward during the investigation

ALTERNATIVE RESOLUTIONS

Your institution's policy should:

- Allow for restorative justice alternatives to a formal investigation
- Ensure that any alternative resolution processes are initiated only upon request by the survivor
- Require that alternative resolution processes be pursued only with the fully informed consent of the respondent
- Provide that specially trained facilitators be made available in cases where restorative justice approaches are requested
- Allow for movement between different processes, allowing participants to decide if the current process is working for them or not

Your institution's policy should not:

- Include mediation as an option for responding to sexual violence and harassment

SUPPORTS

Your institution's policy should:

- Provide for supports including but not limited to trauma-informed services such as counselling and medical support; academic and workplace accommodations; access to safe housing; and information on reporting to police or professional bodies
- Make supports available to complainants, respondents, first responders, bystanders, and any other member of the community affected by sexual violence and harassment
- Offer a centralized process for obtaining supports and accommodations so that a person requesting support only needs to make one disclosure
- Protect complainants against retaliation
- Recognize the work and vicarious trauma of people who receive disclosures or respond to incidents of sexual violence and harassment

PRIVACY AND CONFIDENTIALITY

Your institution's policy should:

- Emphasize the importance of confidentiality
- Identify when confidentiality cannot be maintained, such as, for example, if there is imminent risk of harm to an individual or the campus community or when disclosure is required by law
- Clearly spell out who has rights to what information, including information disclosed during an investigation, the findings of the investigator, and sanctions or disciplinary measures
- Clearly spell out where this information will be kept following an investigation and for how long this information will be kept

Your institution's policy should not:

- Prevent complainants from sharing their personal story

PREVENTION

Your institution's policy should:

- Create a committee to oversee education and prevention efforts with representation from students, staff, faculty, and senior administration
- Provide for training on consent, sexual violence and harassment, and trauma-informed responses to disclosure for all members of the post-secondary community
- Commit to conducting regular campus safety audits, with participation from the campus community through diverse channels

DATA COLLECTION AND REPORTING

Your institution's policy should:

- Require regular public reporting on the number of complaints, the number of third party and anonymous reports, the number of investigations, the number of cases concluded with disciplinary measures, the number of cases suspended along with why they were suspended, and the number of cases addressed through alternative resolutions or informal measures
- Identify clear rules for how records are kept and who has access to them

POLICY REVIEW

Your institution's policy should:

- Have a mandatory review process with a variety of channels provided for community members to offer feedback
- Provide a clear timeline for reviews

For more information on the elements in this checklist, check out CUPE's Guide for Post-Secondary Institutional Policies on Sexual Violence and Harassment.

This information is provided for educational purposes only and does not constitute legal advice. To obtain legal advice, speak to your CUPE National representative who can connect you to the appropriate service.