

## SEXUAL VIOLENCE POLICY

<b>Atlantic School of Theology</b>	<b>Policy Number:</b> Approved by AST Board of Governors – February 2023
<b>Responsible Executive:</b> Management <b>Responsible Office:</b> CAO	<b>Subject Title:</b> Sexual Violence Policy
<b>Issued By:</b> Board of Governors	<b>Subject:</b> Sexual Violence
<b>Approved By:</b> Board of Governors	

### 1. PURPOSE

- 1.1. Atlantic School of Theology (AST) does not tolerate sexual violence. AST is committed to maintaining a positive and respectful learning, living, and working environment that acknowledges the rights of AST community members to remain free from sexual violence.
- 1.2. AST recognizes that sexual violence is a serious problem in society and on university campuses. This societal problem is perpetuated by a culture in which prevalent attitudes, norms, social practices, and media, tolerate, normalize, justify, trivialize, excuse, or outright condone sexual violence. These attitudes and social responses normalize sexual coercion and shift blame onto those who have experienced sexual violence. AST affirms its commitment to fostering a culture on campus in which attitudes and behaviours that perpetuate sexual violence are discouraged and rejected, reporting parties are supported, and disclosures and reports of sexual violence are responded to seriously and in a manner that is procedurally fair.
- 1.3. **The purpose of this Policy is to:**
  - i. Prohibit all forms of sexual violence at AST.
  - ii. Uphold and enforce an affirmative standard of consent.
  - iii. Establish and maintain a climate and culture at AST in which all members of the AST Community enjoy a safe and respectful learning, living, and working environment.
  - iv. Establish a procedure to respond promptly and seriously to disclosures and reports of sexual violence in a manner that is trauma-informed, procedurally fair, and treats all persons involved with dignity and respect.

### 2. POLICY

- 2.1. AST does not tolerate any form of sexual violence.
- 2.2. AST does not tolerate any form of retaliation by respondents or others directed at persons who have made a disclosure or formal report under this Policy, nor at persons who have been named as respondents in such reports.
- 2.3. AST acknowledges that sexual violence is inherently connected to inequality and power imbalances on campus and in our society; and that sexual violence and its harmful consequences are legacies of colonization and disproportionately impact members of social groups who experience the intersecting grounds of discrimination or marginalization, such as

on the basis of sex, gender, gender identity or expression, sexual orientation, Indigeneity, race, age, religious beliefs, ability, and perceived social class. AST will strive to implement this policy with an intersectional understanding of reporting parties/victims, and all those impacted by sexual violence.

- 2.4. AST is committed to providing supports to reporting parties based on their personal experiences, whether or not the reporting party chooses to make a formal report through the AST internal reporting process or any external reporting process (such as reporting to police).
- 2.5. AST recognizes that sexual violence is under-reported for a variety of reasons, including shame, stigmatization, self-blame, fear of reprisals, isolation, ostracism, being dismissed or disbelieved, or fear of experiencing racism or other forms of discrimination in the disclosing or reporting process.
- 2.6. AST is committed to reducing the barriers to disclosure and reporting of sexual violence at AST to the extent possible. This includes educational resources to address issues specific to international students and employees, accessibility supports for students and employees with disabilities, and a commitment to ensuring that reporting parties are not judged or blamed for experiencing sexualized violence, because, for example, they were intoxicated, or because of how they were dressed.
- 2.7. AST recognizes that a barrier to reporting sexual violence on campus is the risk to reporting parties of being subjected to a re-traumatizing reporting process. This Policy aims to protect the safety and respect the choices of reporting parties.
- 2.8. AST recognizes that specialized knowledge and training is required to investigate and determine allegations of sexualized violence, and further, that investigations by qualified investigators are an effective and fair method for gathering information, testing the evidence and credibility of parties and witnesses, and determining whether a breach of this Policy has occurred.
- 2.9. AST acknowledges that its obligation to maintain a non-discriminatory university environment under the Nova Scotia Human Rights Act includes an obligation to establish a procedurally fair and non-discriminatory process for responding to reports of sexual violence.
- 2.10. In accordance with the above commitments, formal reports of sexual violence under this Policy will be investigated by a qualified and trauma-informed investigator, in which the person who has reported experiencing sexual violence (the reporting party) and the respondent are parties to the investigation process. The reporting party and respondent are accordingly both entitled to copies of the investigation report, to copies of the decisions made by the Responsible Authority, including relating to discipline and remedial measures, and to seek review of any decisions made by the Responsible Authority under this Policy.

- 2.11. This Policy applies to all reports of sexual harassment and other forms of sexual violence involving employees of AST. If there is any inconsistency between this Policy and the AST workplace policies, including the Code of Conduct, this Policy governs.
- 2.12. Similarly, this Policy's terms on prohibiting sexual contact between AST employees and students governs in the event of any conflict between it and any present governing AST policies.
- 2.13. Where there is any express conflict between this Policy and the terms of a collective agreement, the collective agreement governs.
- 2.14. In the event that a report under this Policy engages issues under other policies, such as intersecting issues of discrimination under the Code of Conduct, the Report will be investigated under this Policy, with the investigator's terms of reference including consideration of all other relevant and appropriate intersecting issues and policies.
- 2.15. A person who has experienced sexual violence may access other legal processes at any time, including criminal (reporting to the police), civil, criminal injuries, professional, regulatory, or human rights processes.
- 2.16. AST recognizes the importance of sexual violence prevention and education, as well as ongoing training on this Policy at AST, in order to achieve the purposes and goals of this Policy.

### **3. SCOPE**

- 3.1. This Policy applies to all members of the AST community, including but not limited to AST students, students in Residence who attend other universities or colleges in Halifax, staff, administrators, faculty, maintenance staff, independent contractors and their employee(s) working on AST property, librarians, members of the Board of Governors, adjunct or visiting faculty, and postdoctoral fellows.
- 3.2. This Policy applies to disclosures and formal reports of sexual violence, whether the incident(s) occurred on or off campus or through social or electronic media.
- 3.3. Any member of the AST community who has experienced sexual violence may seek accommodations and supports under this Policy. A formal report is not necessary to access support, accommodation, or immediate measures.
- 3.4. A formal report of sexual violence may be investigated in circumstances where the respondent is a current member of the AST community. When a formal report is made against a person who is not currently a member of the AST community, AST may suspend the investigation.

- 3.5. AST is not required to engage the investigation procedure under this Policy if the respondent is not a member of the AST community, but may take other steps in response to a disclosure or report; for example, by prohibiting guests or contractors or others who may provide services to AST or its members from entering AST property, or by referring the matter to the Halifax Regional Police.

#### 4. DEFINITIONS

- 4.1. **Consent to Sexual Activity:** means the voluntary agreement to engage in sexual activity and to continue to engage in the sexual activity. Consent means that all persons involved demonstrate through words or actions, that they freely and mutually agree to participate in the sexual activity.
  - i. Consent must be obtained at the outset and at all stages of sexual activity on an ongoing basis.
  - ii. Consent may be withdrawn at any time.
  - iii. Silence or the absence of “no” is not consent.
  - iv. Consent cannot be assumed from passivity, immobility, or an absence of resistance or perceived resistance.
  - v. Someone who is incapacitated cannot consent.
  - vi. Past consent earlier on the day or night in question, or on previous occasions, does not imply contemporary, ongoing, or future consent.
  - vii. There is no consent when one person abuses a position of trust, power, or authority over another person.
  - viii. There is no consent when there is coercion, force, threat, or intimidation towards any person, or where there is fraud or withholding of critical information that could affect a person’s decision to consent.
  - ix. An individual cannot rely only on their subjectively held (mistaken) belief that the other person is communicating consent but must take active and ongoing reasonable steps to confirm that consent.
  - x. An individual’s state of intoxication is not a defence to sexual contact without consent.
- 4.2. **Disclosure:** refers to a reporting party or a witness sharing information about an incident of sexual violence. Reporting parties and others are encouraged to disclose to the Sexual Violence Prevention Case Manager, who provides information on options following a disclosure and coordinates accommodations and supports. A disclosure is different from a report and does not automatically initiate a formal investigation by AST.
- 4.3. **Formal Report:** a formal report is the sharing of information for the purpose of initiating an investigation that could result in disciplinary and/or remedial measures against a member of the AST community who is alleged to have engaged in sexual violence.

- 4.4. **Incapacitated:** means a person who does not have the capacity to give consent because they are, for example, unconscious or asleep, or their judgment is impaired (such as by alcohol and/or drugs), and as such cannot appreciate the risks or consequences of the sexual act. It is the responsibility of the person initiating or continuing sexual contact with a person who is intoxicated or impaired to establish affirmative consent at all times.
- 4.5. **Member of the AST community:** includes, but is not limited to, AST students, students in the AST Residence who study at other universities or colleges in Halifax, staff, administrators, faculty, maintenance staff, independent contractors, librarians, members of the Board of Governors, adjunct or visiting faculty, and postdoctoral fellows.
- 4.6. **Procedural Fairness:** means a process:
- That is based on impartiality and absence of bias.
  - In which the respondent is informed of the allegations.
  - In which the reporting party is informed of the respondent's response.
  - Which includes a meaningful opportunity for each party to know the evidence against them and respond.
  - In which both parties are given sufficient notice of interviews or meetings at which they are expected to present or respond to evidence gathered as part of the process.
  - That leads to a written decision that includes a sufficiently detailed explanation of the facts and analysis to enable the parties and any reviewing body to understand the decision and the basis for the decision.
- 4.7. **Reporting party:** means a person who has initiated a formal report under this Policy alleging that a member of the AST community has committed sexual violence in breach of this Policy or a person who has disclosed and requested an immediate measure under this Policy.
- 4.8. **Respondent:** means a person who is alleged to have engaged in sexual violence in breach of this Policy.
- 4.9. **Responsible Authority:** refers to the individual(s) designated under this Policy with the authority and responsibility to assess and impose immediate measures, receive reports of sexual violence, appoint the investigator, review the investigator's report, and determine and impose disciplinary measures or remedial measures. The Responsible Authority is:
- For AST Students: Academic Dean or designate
  - For Students of other universities or colleges, the Chief Administrative Officer or designate
  - For Faculty, Librarians, Academic Employees: Academic Dean or designate
  - For Non-Academic Employees: Chief Administrative Officer or designate
  - For Board of Governors: President or designate

- 4.10. **Sexual Activity:** refers to physical sexual activity including but not limited to kissing, sexual touching, oral or anal sexual acts, intercourse, or other forms of penetration.
- 4.11. **Sexual Assault:** Any kind of sexual contact without consent. It can include kissing, sexual touching, oral or anal sexual acts, intercourse, or other forms of penetration. Condom stealthing (the removal of a condom without the express consent of the sexual partner), is a form of non-consensual sexual contact and is sexual assault.
- 4.12. **Sexual Harassment:** means unwelcome or unwanted sexual conduct or comment(s) directed at an individual when the person responsible for the conduct or comment(s) knows or ought to know that the attention is unwanted or unwelcome. Sexual harassment includes jokes or remarks of a sexual nature (such as comments on a person's appearance, body, or clothing, questions about their sexuality or sexual history); leering, ogling, or sexual gestures; sexual attention (such as persistent invitations for dates); reprisal for rejecting a sexual advance; and a single sexual solicitation or advance, or a series of sexual solicitations made by a person who is in a position to confer or deny a benefit on the recipient and who knows or reasonably ought to know the solicitation is unwelcome. Sexual harassment may also consist of unwelcome remarks based on gender or gender-related religious beliefs which are not of a sexual nature, but which are demeaning, such as derogatory gender-based jokes or comments.
- 4.13. **Sexual Violence:** means any act targeting a person's sexuality, gender, or gender expression, whether the act is physical or psychological in nature, that is committed, threatened, or attempted against a person without that person's consent, and includes the Criminal Code Offences of sexual assault, indecent exposure, voyeurism, and non-consensual distribution of sexual/intimate images. Sexual violence also includes sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature. Sexualized violence can take place through any form or means of communication (e.g., online, social media, verbal, written, visual, "hazing," or through a third party).
- 4.14. **Reporting party:** An individual who has experienced sexual violence, has disclosed an experience of sexual violence, or identifies as a reporting party. There is a lot of debate about the terms "victim" and "reporting party." It is up to the individual to choose how they want to be referred to. The term "reporting party" is used when a person discloses that they have experienced sexual violence and has requested an immediate measure or initiated a formal report under this Policy.
- 4.15. **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, program teaching staff, and services delivered by AST librarians.
- 4.16. **Unionized Employee:** Includes all employees of AST who are subject to a collective agreement between AST and a union.

## 5. SEXUAL VIOLENCE CASE MANAGER

5.1 AST does not have the resources of a Sexual Assault Advisor and will contact the Sexual Assault Case Manager at Saint Mary's University. The SMU Sexual Assault Case Manager is intended to be a single point of contact and support, and liaison for members of the AST community who have experienced sexual violence. The Case Manager will provide individualized information, advice, and assistance. The Case Manager will have training and/or experience in trauma-informed practice, gender-based violence, sexual assault law, and sexual violence investigations and procedures.

5.2 The support services offered by the SMU Sexual Violence Case Manager include:

- Receiving confidential disclosures
- Assisting with safety planning
- Identifying and coordinating appropriate academic, residence, employment, or other accommodations in consultation with the appropriate AST departments
- Providing information about referrals to internal services, such as counselling, student advisors or those in similar advising roles.
- Providing information about external organizations, such the Sexual Assault Nurse Examiner (SANE), and Sexual Assault Centres.
- Providing information about confidentiality and privacy, and the limits on confidentiality
- Providing information about internal options under this policy, including
  - immediate measures
  - formal reporting and investigation
  - review of decisions made under this policy
  - alternative resolution, where appropriate
- Assisting with making a formal report, including supporting the individual in preparing any written statement, if and when the reporting party decides to take action
- Acting as a liaison with the investigator appointed to conduct an investigation
- Receiving allegations regarding acts of retaliation relating to a disclosure or a report
- Providing information about other reporting procedures (such as criminal or civil).

5.3 The SMU Sexual Violence Case Manager will develop, implement, and promote sexual violence prevention and education activities at AST.

5.4 The Sexual Violence Case Manager may be reached at

- Telephone: 902-496-8778
- Email: [Sexualviolence@smu.ca](mailto:Sexualviolence@smu.ca)
- In Person: 4th Floor Student Centre, St. Mary's University

Contact information for Sexual Violence Case Manager will be made publicly available on the AST website, along with this Policy, and educational resources for sexual violence prevention and responding to disclosures.

## ACCOMMODATIONS AND SUPPORTS

### Reporting parties:

6.1 When a Member of the AST community makes a confidential disclosure or report of sexual violence, they will be provided access to supports, resources and accommodations. Accommodations and supports that may be available to members of the AST community who have disclosed or reported sexual violence include, but are not limited to:

For Students:

- Safety planning
- Academic accommodations:
  - class schedule changes
  - assignment or exam extensions or deferrals
  - late withdrawal from a course without penalty
- Residence relocation

For Employees:

- Safety planning
- Employment accommodations:
- Temporary work, location, or scheduling changes

6.2 To avoid the reporting party being required to make multiple disclosures, accommodations and supports should be coordinated through the Sexual Assault Case Manager.

6.3 Emergency support is available 24/7 by:

- Seeing the Sexual Assault Nurse Examiner (SANE), 1-877-880-7263
  - The role of the SANE is to provide specialized medical care for sexual assault, as well as information and emotional support. They may also collect and preserve forensic evidence for the purposes of a criminal investigation if the Reporting party wishes. Generally, DNA evidence can only be collected within 168 hours (7 days) of the sexual assault and should be collected as soon as possible.
- Calling 911 (Police or Ambulance)
- Calling SMU Campus Security (902) 420-5000
- Calling or going to the emergency department at any local hospital.

6.4 For students, SMU Counselling Centre services may also be accessed during business hours. Where possible, AST will arrange for culturally relevant counselling for the reporting party, depending on availability.

6.5 For employees, the Employee and Family Assistance Program can also be accessed 24/7 at (800) 387-4765 or [www.workhealthlife.com](http://www.workhealthlife.com).



**Student Respondents:**

6.6 A student who is alleged to have committed an act of sexual violence will be entitled to choose a support person and may request that the Chief Administrative Officer or the Academic Dean (depending upon whether the respondent is a student at AST or at another school) act in this capacity. When acting as a support person, the person so designated will:

- Provide information to the respondent on immediate measures, investigation, formal reports, and review of decisions under this Policy
- Act as a liaison and provide support and coordination in academic accommodations requested by the respondent or arising from any immediate measures
- Assist the respondent in providing information to AST in any risk assessment or imposition of immediate measures, and/or to request a reconsideration of immediate measures
- Assist the respondent in preparing the respondent's statement(s) or responses(s) related to any immediate measure, investigation, or request for review of a decision under this Policy
- Provide information about confidentiality and privacy and the limits of confidentiality
- Remind respondents of the importance of confidentiality at all stages of the reporting process and assist with balancing confidentiality with the need for support and avoiding isolation.
- Where possible, AST will arrange for culturally relevant counselling services for the respondent, depending on availability.

**Employee Respondents:**

6.7 An employee alleged to have committed an act of sexual violence will be entitled to choose a support person to act in a confidential advisory capacity throughout the process. An employee who is subject to a collective agreement may be supported by a union representative pursuant to the terms of the relevant collective agreement.

**DISCLOSURE**

**First Disclosure Often to a Trusted Person**

6.8 AST recognizes that persons who have experienced sexual violence, frequently first disclose to a trusted person, such as a friend, colleague, faculty member, union representative, community advisor or a university employee. Educational resources will be made accessible to students and employees about how to respond to a disclosure on the AST website.

**Faculty/Staff Must Provide Information About the Sexual Violence Prevention and Response Team to the Reporting Party**

6.9 All AST employees who receive confidential disclosures must provide information to the reporting party about the availability of the SMU Sexual Violence Case Manager as the person to receive confidential support and information about options. It is the choice of the reporting party whether to access this service.

- 6.9.1 AST will offer annual training on this Policy, accessing the Sexual Violence Case Manger, and best practices for members of the AST community in responding to disclosures of sexual violence. Such training shall be mandatory orientation training for all new staff and faculty.

**Amnesty for Drug/Alcohol Misconduct by Reporting parties**

- 6.9.2 AST recognizes that some individuals may be reluctant to come forward to disclose or report sexual violence if they were drinking or using drugs at the time the sexual violence took place, particularly if to do so violated an employment, student, or athletic code of conduct. A member of the AST community who makes a report in good faith will not be subject to disciplinary actions by AST for violations of such policies at the time the sexual violence took place.

**The Role of the SMU Sexual Violence Case Manager and Recording Names of Alleged Perpetrators**

- 6.10 AST acknowledges that sometimes reporting parties disclose sexual violence because they want AST to ‘know,’ or they want there to be some form of ‘record,’ but don’t want to take further steps. At AST, the Residence Manager will track this information for students in Residence. The office of the Academic Dean will maintain such information for AST students not in Residence. Initial disclosures to trusted persons, such as a faculty member or colleague, are not sufficient for this purpose. While the trusted person may have an obligation to inform the Responsible Authority or the SMU Sexual Violence Case Manager (see Section 9), reporting parties are encouraged to disclose to the SMU Sexual Violence Case Manager directly, or give permission to the trusted person to provide information to the SMU Sexual Violence Case Manager if the goal is for there to be some “record” of their experience, but not take any further steps.

**Coordination of Information**

- 6.11 When SMU Security or AST receives a disclosure or report of sexual violence, a copy of the incident report or information on the incident and the persons involved, shall be provided to the SMU Sexual Violence Case Manager (except to the extent this is inconsistent with the terms of a collective agreement).
- 6.12 Agreements with contractors of AST will include a clause requiring disclosure of any disclosure/report of sexual violence received by the contractor involving a member of the AST community.

**IMMEDIATE MEASURES**

- 6.13 Immediate measures may be imposed on a respondent at any time following a disclosure or report of sexual violence. A formal report is not required for immediate measures to be requested or imposed. The person who disclosed sexual violence will be referred to as the “reporting party” in this section.
- 6.14 In most cases, an assessment of whether to impose immediate measures will be initiated at the request of the reporting party. Such requests will be processed through the office of the Chief Administrative Officer (CAO).

6.15 AST may impose immediate measures on its own initiative, if there is risk of harm to the reporting party, the respondent, or the AST community or any member of the AST community.

6.16 A reporting party who requests immediate measures following a disclosure must consent to the release of their name and the general nature of the allegations to the respondent in order for the process to be procedurally fair.

6.17 Prior to the assessment and imposition of any immediate measures, the reporting party shall be consulted, and their reasonable input and concerns taken into account.

6.18 A breach of immediate measures is a breach of the AST Code of Conduct, or the terms of the employee collective agreement, where applicable.

### **AST Employee Respondents – Procedure for Imposing Immediate Measures**

6.19 When the respondent to a disclosure or report of sexual violence is an AST employee, immediate measures shall be imposed by the Chief Administrative Officer (CAO). Immediate measures will comply with the terms of the Collective Agreement, if applicable.

6.20 Immediate measures may include, but are not limited to:

- No contact/communication orders
- Arrangements to minimize encounters in working environments, such as changes in work schedules or assignments
- Restricting access by the respondent to part or all of the University campus
- Suspension of the respondent.

6.21 When immediate measures are imposed on an AST employee, the reporting party shall be provided with information about the terms of the immediate measures.

### **Student Respondents – Procedures for Imposing Immediate Measures**

6.22 When the respondent to a disclosure or report of sexual violence is an AST student, or a student of another university or college who lives in the Residence at AST, immediate measures shall be imposed by the Academic Dean or the Chief Administrative Officer as appropriate.

6.23 Immediate Measures may include, but are not limited to:

- No contact/communication orders
- Arrangements to minimize encounters in learning or living, such as changes in class schedules or sections, or location of accommodation in the Residence at AST
- Restricting campus privileges of the respondent
- Suspension from a membership in a club or society
- Loss of student privileges
- Restricting access of the respondent to part or all of the University campus, up to and including a campus ban
- Suspension of the respondent.

### **Test for Imposing Immediate Measures**

6.24 Immediate measures may be imposed when there is reasonable cause to believe that immediate measures are required:

- To protect the safety, security, or academic or employment well-being of the reporting party or any other member of the AST community
- To address any risk posed by the respondent to the safety of the reporting party and/or to the AST community
- To maintain confidentiality and/or the integrity of an investigation or anticipated investigation
- To discourage or prevent retaliation
- To minimize disruption to the learning, living, or working environment at AST
- To maintain and build community trust and confidence in AST
- To maintain and promote a campus environment in which sexual violence is not tolerated.

6.25 In addition to the above factors, consideration shall be given to:

- The interests and expressed needs of the reporting party
- The views of the respondent, if available, including any consent to immediate measures
- The nature and seriousness of the alleged conduct
- The impact of the conduct on the reporting party and/or on the AST community
- The impact of the proposed measures on the respondent, and
- Whether the respondent is in a position of trust or authority.

6.26 Any immediate measures imposed shall be as minimally restrictive as possible in the circumstances, to meet the above goals.

6.27 Notice in writing of the immediate measures shall be provided to the respondent through the Responsible Authority as applicable, as soon as possible, but no later than 24 hours from decision.

6.28 Any party may request a reconsideration of the immediate measures.

### **Student Respondents**

6.29 If the immediate measure is a suspension or campus ban and the respondent is a student, any formal investigation will be undertaken on an expedited basis.

6.30 Student respondents may require academic accommodations arising from immediate measures (such as in the case of a campus ban), which may be requested through the Academic Dean.

6.31 Immediate measures imposed on a student respondent may remain in place for a specified time that will be communicated to the student respondent when:

- A disclosure but no formal report has been made and no investigation initiated
- The immediate measures meet the needs of the reporting party and that person consents
- The respondent consents to the continuation of the immediate measures, and
- Immediate measures address the safety, remedial, and campus responsibilities of AST.

## 7 CONFIDENTIALITY

### **Disclosures are Confidential**

7.9 Ensuring confidentiality is a key principle in creating an environment and culture in which Reporting parties feel safe to disclose and seek support and accommodation. AST is committed to ensuring that such an environment and culture exists at the university. People who receive disclosures may seek counsel from SMU Sexual Violence Case Manager without disclosing identifying information.

### **Limits on Confidentiality**

7.10 In order to access various employment, residence, or academic accommodations, it may be necessary for the reporting party to provide consent to share some information with persons responsible for those accommodations for safety related reasons, for example in order to ensure no contact with the respondent.

7.11 AST cannot guarantee absolute confidentiality in all cases of a disclosure. AST may be required to disclose information and/or undertake its own investigation when:

- i. There is a serious risk of harm to self or others
- ii. There is objective evidence of sexual violence, such as evidence of sexual violence in the public realm (e.g., a video posted on social media) or otherwise recorded or documented and available to AST
- iii. There is a risk to the safety of the university and/or broader community
- iv. Records are subpoenaed
- v. Reporting or other action is required or authorized by law.

7.12 Examples of cases in which AST may have a duty to undertake its own investigation or take other steps without the consent of the reporting party include cases in which there are multiple complainants or respondents, multiple disclosures made against the same person, or the sexual violence is in the public realm (e.g., a video-recorded act against an intoxicated person). In such cases, AST will provide notice and support to the reporting party when the reporting party is known, and the reporting party has the right to decide whether to participate in any investigation.

### **Disclosures to Trusted Faculty or Staff**

7.13 If a disclosure is made to an employee of AST and involves an employee(s) of AST as the respondent, the trusted person is required to inform the Chief Administrative Officer for follow-up and potential investigation under the applicable process for the employee(s). This requirement is in accordance with various statutory provisions (e.g., Occupational Health & Safety Act) and under common law.

7.14 If a Disclosure is made to a (University) Health Professional, the Personal Health Information Act permits release of information without an individual's consent only in narrow circumstances, such as if the Health Professional believes the disclosure will avert or minimize an imminent and significant danger to the health or safety of any person.

### **Confidentiality to Maintain the Integrity of an Investigation**

- 7.15 Following a report, information about the investigation and report will be shared only by the investigator and/or AST staff, as necessary for the purposes of the investigation or as required by law.
- 7.16 AST recognizes that requiring persons who have disclosed or reported sexual violence not to talk about the experience because of an ongoing reporting process is a barrier both to reporting and to healing. AST further recognizes that a respondent may need to share some information in order to facilitate their response and identify witnesses; a reporting party may need to share some information in order to identify witnesses and assist the investigation; and both parties may need to confidentially rely on their respective circles of support, such as close friends, family, therapists, or legal counsel.
- 7.17 Having regard to the above, AST encourages reporting parties and respondents to ensure that any communications about an incident(s) of sexual violence during a reporting process do not taint or undermine the integrity or fairness of the process. If communications adversely impact the integrity of the investigation, the outcome of the process may be negatively impacted.

### **Statements Compellable in Other Proceedings**

- 7.18 Information or statements provided by a reporting party, respondent or witness to AST following a disclosure or report may be subpoenaed as part of any related civil or criminal proceeding.

## **PUBLIC STATEMENTS**

### **Statements by Reporting parties and Others**

- 7.19 Reporting parties and those impacted by sexualized violence are free to tell the story of their own experiences. During an ongoing investigation, however, confidentiality should be maintained, as set out in Section 7.16 above.
- 7.20 Reporting parties and others should be aware that if they choose to make public statements about their experiences, they may be putting themselves at risk of civil lawsuits by those who believe they have been defamed or had their privacy rights violated. Individuals should exercise care and judgment when deciding whether to make public statements, or what information to include in such public statements, and should seek legal or other advice if unsure.

### **Statements by AST**

- 7.21 The Responsible Authority shall determine whether a public bulletin or statement should be issued by AST arising from a disclosure or report of sexual violence.
- 7.22 Decisions about whether to issue a public statement about a disclosure or report will be made consistent with the principles and commitments in this Policy, including the University's commitment to equity; trauma-informed approaches; respecting the needs and agency of persons who disclose sexual violence; encouraging disclosures and reporting of sexual violence; maintaining a campus free from sexualized violence; and establishing community trust and confidence in AST that sexual violence is not tolerated.

- 7.23 Public statements by AST will not disclose the personal information of the respondent or the person who disclosed or was impacted by sexualized violence without the consent of that person.
- 7.24 AST reserves the right to correct misleading or inaccurate public information.
- 7.25 Public statements by AST will comply with applicable privacy legislation and the terms of any collective agreement.
- 7.26 All statements regarding sexual violence will be officially approved by the President or designate prior to release on behalf of the University.

## **8 ALTERNATIVE RESOLUTION**

- 8.9 In appropriate circumstances, a reporting party may wish to resolve the matter without a formal report, or prior to the conclusion of the formal reporting process. A respondent may also seek to initiate an alternative resolution process.
- 8.10 In appropriate circumstances, Indigenous reporting parties may wish to resolve the matter without a formal report, or prior to the conclusion of the formal reporting process, and seek alternative resolution through an Indigenous resolution process. An Indigenous respondent may also seek to initiate an alternative resolution through an Indigenous resolution process.
- 8.11 Alternative resolution will be explored only with the express and informed consent of the reporting party, respondent and AST.
- 8.12 Parties that engage in alternative resolution do so on a ‘without prejudice’ basis. In other words, either the reporting party or respondent may withdraw from the process at any time, and any information or admissions shared in the process cannot be used against either party in a formal report and investigation under this Policy or in any other proceeding at AST.
- 8.13 The goals of the process are acceptance of responsibility, mutual understanding, safety, and education/remediation.
- 8.14 An alternative process does not require any face-to-face/in-person interaction between the reporting party and the respondent.
- 8.15 The outcomes of a facilitated alternative resolution process may include a voluntary apology letter from the respondent, a written agreement that includes behavioural expectations, and/or education or training, such as that related to anti-violence, anti-oppression or consent, or a voluntary agreement by the respondent to other measures.
- 8.16 Alternative resolution processes must be facilitated by a person with training appropriate to the seriousness and nature of the allegations and the context of the parties, and with training or experience in gender-based violence, trauma-informed practice, and mediation or counselling.

8.17 Alternative resolution is presumptively inappropriate where previous reports have been made about the respondent or where AST has received multiple disclosures about the respondent.

8.18 A record of the alternative resolution shall be maintained by AST in the student or resident file for a period of four years, or for as long as the students are part of the AST community, whichever is longer; and in the employee files of AST employees in accordance with the terms of any collective agreement or applicable employee policies.

## **9 FORMAL REPORTS**

9.9 A formal report is the sharing of information by the person who is reporting sexual violence, (the reporting party) for the purpose of initiating an investigation that could result in disciplinary action or remedial measures being imposed on the respondent member of the AST community.

9.10 AST process in response to a report is guided by the following:

- i. Trauma-informed practice
- ii. Avoidance of discriminatory assumptions and stereotypes about persons who experience and/or report sexual violence
- iii. Non-adversarial approaches to permitting the parties to ask questions and test the evidence
- iv. Supports for the reporting party and the respondent
- v. The rights of both the reporting party and respondent as parties
- vi. Procedural fairness
- vii. Timeliness, and
- viii. Maintaining confidentiality to the extent possible.

### **Initiation of Report**

9.11 All reports of sexual violence should be submitted through the SMU Sexual Violence Case Manager. The Sexual Violence Case Manager will then forward to the Responsible Authority. When a formal report is made to another office, the relevant office shall forward to the SMU Sexual Violence Case Manager.

9.12 A Report may be initiated in a variety of ways, depending on the needs and circumstances of the reporting party. It may be initiated by:

- i. A brief written or oral report that contains the name of the respondent, the date(s) and general nature of the allegations, and a request that the details of the report be taken by the investigator, so as to avoid the reporting party having to tell their story on multiple occasions.
- ii. An oral report to the SMU Sexual Violence Case Manager, which is summarized by the Case Manager, and approved and signed by the reporting party
- iii. A written statement by the reporting party providing details of the incident(s).

### **No Deadline for Making a Formal Report**

9.13 There is no deadline for making a report under this Policy. AST recognizes that reporting parties may require time to disclose and/or report. Reporting parties are encouraged to report as soon as



they have made the decision and are able to do so, so as to minimize any loss of evidence due to the passage of time. If the respondent is no longer a member of the AST community, AST is not required to investigate under this Policy.

9.14 The reporting party and respondent shall be provided with notifications and updates on the progress of the report, investigation, or review.

### **Preliminary Screening by Responsible Authority**

9.15 On receipt of the report, the Responsible Authority shall determine whether:

- i. The reporter conduct falls within the scope of this Policy
- ii. The respondent is a member of the community, and
- iii. In accordance with Section 8, immediate measures are appropriate (if they have not already been imposed).

### **Appointment of Investigator**

9.16 If the Responsible Authority determines that the Report falls within the scope of the Policy, the Responsible Authority shall appoint a qualified external investigator, preferably with training and/or experience in trauma-informed practice and sexual violence investigations and procedures.

### **The Investigator's Mandate**

9.17 The role of the investigator is to make findings of fact and determine whether the respondent engaged in sexual violence in breach of this Policy (and any related Policy that may be included in the scope of the investigation).

### **Procedure for Investigating Formal Reports when the Respondent is an AST Employee**

9.18 When the respondent to a report is an AST unionized employee, the procedure for investigating the report shall follow the applicable collective agreement in addition to Sections 9.9 - 9.19 in this Policy. Where the respondent is a non-unionized employee, the reporting party shall be promptly informed following submission of the report, of the procedure that will be undertaken by AST to respond to the report in addition to Sections 9.9 - 9.19 in this Policy.

9.19 The reporting party shall be provided with a copy of the investigation report related to their report, including any findings of breach of this Policy or of any other AST policy. The report provided to the reporting party shall be redacted of identifying information of any person other than the reporting party. In cases where there are multiple reports, each reporting party will only receive the portion of the investigator's report that relates to their allegation.

9.20 In a circumstance in which an investigation report has not been prepared (for example, the employee quit or was terminated without the necessity of a full investigation), the reporting party shall be advised that no investigation report was prepared.

## **Procedure for Investigating Formal Reports when the Respondent is a Student**

### **Written Notice to Student Respondent**

- 9.21 Within five (5) business days of receiving the report, the Responsible Authority shall provide written notice to the respondent which includes:
- i. A summary of the allegations and notice that an investigation will be initiated
  - ii. Information about the investigation process
  - iii. A copy of this Policy
  - iv. A direction that any direct or indirect reprisal against the reporting party constitutes a disciplinable breach of this Policy
  - v. A direction to keep the report confidential in order to maintain the integrity of the process, and
  - vi. Contact information for the Chief Administrative Officer.

### **Notice to Reporting Party**

- 9.22 The reporting party and the SMU Sexual Violence Case Manager shall receive a copy of the notice sent to the respondent.
- 9.23 The reporting party may elect or request to receive all communications from AST and/or the investigator, through the SMU Sexual Violence Case Manager rather than directly.

### **Summary Dismissal of Report**

- 9.24 The investigator may dismiss the allegations summarily, if the investigator finds that the report is frivolous, vexatious, or made in bad faith. There is no appeal of this decision.
- 9.25 In cases in which the investigator dismisses the report summarily, the investigator's report shall provide the factual basis and reasons for the summary dismissal.

### **Role of Support Persons for Reporting Party and Student Respondents**

- 9.26 In addition to any support offered by SMU Sexual Violence Case Manager (for the reporting party) and the Chief Administrative Officer (or the Academic Dean, depending on the status of the respondent) for respondents), reporting parties and respondents may be supported by a trusted person, including legal counsel, in the investigation.
- 9.27 Support persons may not speak for the party. Evidence about what happened, whether in written or oral form, must be provided by the party directly. Letters or written submissions on behalf of a party will not be received as evidence in the investigation.
- 9.28 The role of legal counsel or a support person may include:
- Emotional support for the reporting party or respondent
  - Supporting the reporting party or respondent in preparing to tell their evidence to the Investigator
  - Assisting the reporting party or respondent in interview(s) with the investigator, as permitted by the investigator, for example by asking questions where the reporting party or respondent forgets key information due to the stress of the process

- Observing the investigation interview(s), including with a view to issues of procedural fairness
- Asking questions of the investigator relating to timing and next steps in the process; however, the investigator may refuse to permit such process-type questions from a support person who unduly interrupts or is otherwise disruptive to the investigation.

### **Investigator Determines Investigation**

9.29 The investigator shall independently develop the approach to the investigation, which will include interviewing the parties and any witnesses as determined by the investigator.

9.30 The investigator may require production of relevant documents from the parties or witnesses, such as texts, emails, or other social media or recorded evidence.

9.31 The investigator shall communicate with the reporting party, respondent, and witnesses, to schedule interviews and receive documents, if any.

9.32 Interviews with the investigator may be held off campus if the investigator determines it is necessary to maintain the confidentiality and integrity of the investigation after considering the views of the parties.

9.33 Where a reporting party has submitted a written statement, the investigator may require the respondent to prepare a written response prior to conducting interviews.

9.34 The investigator may conduct multiple interviews with each party and witnesses.

### **The Parties' Right to Know and Respond to Evidence**

9.35 Each party has the right to know and respond to the evidence. The respondent shall be provided with the reporting party's written report, statement obtained in the interview, or summary of the interview, and an opportunity to respond. The reporting party shall be provided with the respondent's written response, statement obtained in the interview, or summary of the interview, and an opportunity to respond. The investigator will provide both parties with a reasonable opportunity to respond to any new information obtained during the Investigation, including statements of witnesses and documentary evidence.

9.36 If the parties have copies of texts, emails, social media, video recordings or campus security or residence incident reports or other similar documents related to the allegations, these should be provided to the investigator.

9.37 If a party does not produce relevant documents prior to the interviews as described above, the investigator may refuse to accept the evidence or may draw an adverse inference against the party in question.

### **Opportunity to Pose Questions**

9.38 The investigation is a non-adversarial fact-finding process. In addition to the opportunity to know and respond to the evidence, each party will have the opportunity to pose questions to the investigator, that the investigator may consider asking of the other party or witness. The investigator will determine whether those questions are relevant, appropriate and/or will assist in the investigation.

### **Process May be Iterative**

9.39 The investigator may request follow-up meetings with and/or additional written responses from either or both of the reporting party and respondent.

### **Withdrawal from the Process**

9.40 The reporting party may withdraw from the formal report process at any time. If a reporting party withdraws their participation in the formal reporting process, AST may continue with the investigation or suspend, close, or end the investigation, depending on factors which include the health and safety of the reporting party, the nature of the allegations, and whether there is sufficient information available to the investigator to proceed with the investigation.

### **Respondent's Failure to Participate**

9.41 If a respondent refuses to participate in an investigation, the investigator may determine the findings on the basis of the information provided by the reporting party.

9.42 Where an investigator draws an adverse inference arising from a respondent's failure to participate, the investigator must make the impact of the adverse inference clear in the reasons contained in the investigator's report.

### **Investigation Timeline**

9.43 The investigation should be completed in as timely a way as possible, with the goal of completing the Investigation within 30 days following the appointment of an investigator. AST recognizes, however, that numerous factors that may impact the progress of an investigation, including the health of the participants.

9.44 If the investigation is not complete 30 days following the appointment of the investigator, the investigator shall update the Sexual Violence Case Manager and the parties on the progress of the investigation on the 30<sup>th</sup> day following the appointment, and every two weeks thereafter.

### **Investigator's Report**

9.45 Upon completion of the investigation, the investigator shall prepare a report that contains:

- i. A description of the evidence of all witnesses and any other relevant evidence
- ii. Findings of fact
- iii. Explanation of findings of credibility, if applicable
- iv. A determination as to whether, on a balance of probabilities, any act of sexual violence prohibited by this Policy occurred, and
- v. The reasons for the findings of fact and any finding of breach of this Policy (and any related policy).

- 9.46 The investigator's report constitutes the findings and the reasons for the finding, on which any review of the findings will be conducted. The report accordingly must provide a sufficiently detailed explanation of the facts and analysis to enable the parties and any reviewing body to understand the decision and the basis for the decision.
- 9.47 A copy of the investigation report shall be provided to the Responsible Authority, the reporting party, and the respondent. Copies of the report provided to the parties shall be redacted of identifying information of any person other than the person receiving the report.
- 9.48 In cases in which there are multiple reports, each reporting party will receive only the portion of the investigator's report that relates to that reporting party's own allegation(s).
- 9.49 The Responsible Authority may seek further information or clarification from the Investigator before accepting the investigator's report.
- 9.50 Additional information or clarification relevant to the investigation provided to the Responsible Authority by the investigator shall be communicated to the parties in writing by the investigator. As appropriate, the parties shall be given opportunity to respond.

#### **Decision by Responsible Authority: Discipline and Remedial Measures**

- 9.51 Prior to issuing a decision, the Responsible Authority may request a review of the investigator's report by the Sexual Violence Review Panel (SVRP) (see Section 13.5), on the following grounds:
- i. There was a serious procedural error that caused prejudice to one of the parties;
  - ii. The investigator's findings of facts are clearly unsupported on the evidence; or
  - iii. The investigator's decision as to whether a breach of the Policy occurred is clearly unsupported on the basis of the findings of facts in the investigation report.
- 9.52 The Responsible Authority will request a written review in accordance with Section 10.7 (i) to 10.7 (iv). This request will suspend the timelines in Section 10.56.
- 9.53 The parties and the Responsible Authority may make written submissions to the SVRP on the grounds of review.
- 9.54 If the SVRP determines that any of the grounds of review set out in Section 9.51 are proven, the SVRP may make a decision in accordance with Section 10.4 (i) to 10.4 (iv).
- 9.55 Sections 10.8, 10.14 and 10.15 apply to a request for review by the Responsible Authority.
- 9.56 Within seven days of receipt of the investigation report, the parties may make written submissions to the Responsible Authority with respect to appropriate discipline and/or remedies, if a breach of this Policy was found to have occurred. A reporting party may include in the submission the impact of the sexual violence on the reporting party.

9.57 Upon receiving the investigator's report, and the written submissions of the parties, the Responsible Authority will review the report and determine the appropriate discipline and/or remedial measures.

9.58 In making this determination, the Responsible Authority may confidentially consult with other persons as necessary.

9.59 The Responsible Authority has the exclusive jurisdiction to impose discipline and remedial measures.

9.60 Disciplinary measures for a finding of a breach of the Policy may include, but are not limited to the following:

- For Students (both AST students and students of other universities or colleges who live in the AST Residence):
  - a. Written warning or reprimand
  - b. Probation
  - c. Behavioural contract, the breach of which will result in discipline, including:
    - i. no contact/no communication directives;
    - ii. restricting access to all or parts of the AST campus;
  - d. Suspension or denial of university privileges, including suspension or removal of a student from a sports team
  - e. Restrictions on accessing all or parts of the AST campus
  - f. Suspension or Expulsion from AST
  - g. Suspension or Expulsion from the Residence at AST (non-AST students)
- For Employees:
  - a. Written warning/reprimand
  - b. Suspension with or without pay
  - c. Termination of employment

9.61 Remedial measures include:

- For Students (both AST students and students of other universities or colleges who live in the AST Residence):
  - a. Voluntary Written Apology
  - b. Education or Training
  - c. Residence relocation
  - d. Residence suspension
  - e. Restrictions on accessing all or parts of the AST campus
  - f. Removal from a course or section of a course
- For Employees:
  - a. Employment relocation or reassignment
  - b. Restrictions on accessing all or parts of the AST campus
  - c. Supervision or oversight of teaching/learning/work environment by AST

- 9.62 In determining disciplinary or remedial measures, the Responsible Authority may consider:
- The sanction or remedy sought by the reporting party
  - The principle of progressive discipline
  - The University's role as an educational institution
  - The nature and severity of the incident
  - The impact of the conduct on the reporting party's continued education or employment at AST
  - The impact of the conduct on the AST community
  - The university's commitment to zero tolerance of Sexual Violence
  - The university's commitment to reducing the barriers to reporting

9.63 Within two (2) days of receipt of submissions, the Responsible Authority shall issue a written decision setting out the disciplinary and/or remedial measures ordered by AST. The decision will include the reasons for the measures imposed and the information relied on in making that decision.

9.64 A copy of the decision on disciplinary and remedial measures shall be provided to the respondent. A copy of the decision on remedial measures may also be provided to the reporting party. Confidential information may be redacted from the copy of the decision provided to the reporting party. The reporting party shall keep the decision confidential, except to the extent that it is necessary to share information to enforce the measures.

#### **AST Student Respondents Not Permitted to Withdraw from AST During an Investigation**

9.65 A respondent student will not be permitted to formally withdraw from AST during an ongoing investigation and discipline process under this Policy. If a student is found to have breached the policy, the disciplinary measure may be noted on the student's transcript in accordance with the Academic Calendar.

#### **AST Student Respondents not Provided Academic Transcripts Directly During an Investigation**

9.66 While under investigation for a breach of this Policy, a student respondent will not be issued academic transcripts directly; but, at the student's request, these transcripts will be sent to institutions or potential employers. If the student is subsequently disciplined and this is reflected on the student's transcript, the recipients of the transcript will be issued a revised transcript.

### **10 REVIEW OF INVESTIGATOR'S FINDINGS AND RESPONSIBLE AUTHORITY'S DECISION ON DISCIPLINE OR REMEDIAL MEASURES INVOLVING AN AST STUDENT RESPONDENT**

10.1 The process for review of the investigator's findings and/or discipline/remedial measures in cases involving a student respondent is that either a reporting party or respondent may seek to review the decision of the Responsible Authority. A review is initiated by a request in writing to the Responsible Authority.

10.2 Review under this Policy is not a hearing or re-hearing of the evidence and is limited to the grounds of review below. In most cases, the Review will be heard in writing only.

- 10.3 Any disciplinary or remedial measures ordered by the Responsible Authority will remain in force until the review is decided.
- 10.4 A reporting party or respondent may request a review of a finding of breach of this Policy by the investigator or the disciplinary or remedial measures ordered by the Responsible Authority, on the following grounds:
- i. There was a serious procedural error that caused prejudice to the party seeking the appeal
  - ii. The investigator's decision as to whether a breach of the Policy occurred is clearly unsupportable on the basis of the findings of fact contained in the investigation report
  - iii. New facts relevant to the final determination are available, that were not available during the investigation, or
  - iv. The discipline or remedial measures are unreasonable.
- 10.5 The review will be carried out by the Sexual Violence Review Panel (SVRP), which shall be comprised of three persons appointed by the President as follows:
- i. An external lawyer who has experience in administrative law, procedural fairness, gender-based violence, sexual harassment, and sexual assault law, and
  - ii. Two members of the SVRP roster established by the President, who have training or experience in this Policy, procedural fairness, gender-based violence, and the laws of sexual assault and sexual harassment.
- 10.6 Requests for review must be made in writing and submitted to the Responsible Authority within 10 days of the decision of the Responsible Authority.
- 10.7 The written request for review must provide:
- i. A statement for the grounds of review
  - ii. A statement of the facts relevant to the grounds for review
  - iii. A statement of the remedy or relief sought
  - iv. Copies of relevant documents that support the review, and
  - v. In the event of new evidence that was not available at the time of the investigation, copies of that evidence or witness statements.
- 10.8 The SVRP may summarily dismiss a request for review that it determines does not raise a valid ground of review.
- 10.9 If new evidence is provided to the SVRP, the responding party to the review (the reporting party or the respondent) shall be given notice of that new evidence and an opportunity to respond.
- 10.10 In circumstances where the discipline order is suspension or expulsion, the SVRP shall convene a review with oral submissions at the request of the respondent. The SVRP has the discretion to hear oral or written submissions from the reporting party or respondent on the grounds of review.
- 10.11 The reporting party will be provided notice of any SVRP hearing and will be entitled to make submissions, should the reporting party wish to participate.



- 10.12 If the SVRP determines that any of the grounds of review set out in Section 10.4 are proven in relation to the investigator's findings, the SVRP may, depending on the reasons for decision and the circumstances of the case before it:
- i. Refer the matter to the investigator for reconsideration
  - ii. Require that a new investigation be undertaken and direct the Responsible Authority to appoint a new investigator
  - iii. Order that any immediate measures in place during the investigation continue
  - iv. Direct the Responsible Authority to determine whether any immediate measures should be imposed pending the re-investigation, and/or
  - v. Suspend any discipline or remedial measures ordered resulting from the finding.
- 10.13 If the SVRP determines that any of the grounds of review set out in Section 10.4 are proven in relation to the discipline or remedial measures, the SVRP may:
- i. Uphold the discipline or remedial measures ordered, or
  - ii. Modify or reverse the discipline or remedial measure and substitute its own decision.
- 10.14 The SVRP shall issue its decision in writing. The decision shall include an explanation of the basis and reasons for the decision in relation to each ground of review put before the SVRP.
- 10.15 The decision of the SVRP shall be final.

## **11 PARALLEL CRIMINAL PROCEEDINGS**

- 11.1 When a student respondent has been charged criminally for a sexual violence related offence, AST will suspend any ongoing investigation under this Policy until resolution of the criminal charge, unless:
- The investigation is complete (all interviews are finished)
  - The police or Crown do not object to AST commencing or continuing the investigation and the student respondent consents, or
  - Exceptional circumstances exist, such as relating to the health and safety of the reporting party or campus community that is not otherwise addressed by any criminal conditions or immediate measures imposed.
- 11.2 When an employee of AST has been charged criminally for a sexual violence related offence, AST may choose, after consultation with the reporting party, to continue or suspend any investigation or alternative resolution process under this Policy, as determined appropriate by AST.
- 11.3 A respondent is required to provide to AST information on any current criminal charges faced by the respondent and criminal conditions, such as bail or conditions of release, relating to the incident(s) of sexual violence that is the subject matter of the disclosure or report. For student respondents, this information is to be submitted to the Academic Dean; for employee respondents, this information is to be submitted to the Chief Administrative Officer.

### **THIRD PARTY OR ANONYMOUS REPORTING**

- 12.1 When a person witnesses or has reasonable concerns about an incident(s) of sexual violence, they may submit written or oral information to the Sexual Violence Prevention and Response Team.
- 12.2 A Third-Party Report occurs when information about an incident of sexual violence is shared by an identifiable person who is not the reporting party/person who directly experienced the sexual violence. When the information relates to an identifiable or identified reporting party, the consent of that reporting party should be sought before the information is provided to AST.
- 12.3 An anonymous report occurs when information about an incident of sexual violence is shared in a form that is anonymous; for example, when the SMU Sexual Violence Case Manager receives a written submission with no name attached to it, or a person discloses to another staff member but will not disclose their name. An anonymous report may be made by a reporting party or a third party.
- 12.4 AST may be unable to investigate an anonymous or third-party report due to lack of information, or out of respect for the individual impacted by the sexual violence who has decided not to come forward.
- 12.5 Examples of occasions upon which AST may initiate its own investigation following one or more third-party or anonymous reports include those in which there is social media or other evidence documenting sexual violence and/or when persons witnessed sexual violence against a person who was incapacitated, unconscious or asleep. When there are multiple disclosures and one or more persons has made a formal Report, but others have made only a confidential disclosure, AST may investigate the totality of the conduct by the respondent, including by revelation of confidential disclosures to an investigator in the course of the investigation, or by asking those who made confidential disclosures to participate in the investigation.
- 12.6 When AST receives multiple third-party or anonymous reports, AST may also explore what steps may be taken short of an investigation (which would require release of the identity or identities of the reporting party(ies)), such as targeted education and training, and/or increased campus security or monitoring of specified locations or events.
- 12.7 When AST proceeds with an investigation following a third-party or anonymous report, the reporting party has the right to choose not to participate. AST will consult with that person, if they are willing, on the risks or concerns to them in response to the investigation and ways in which those risks can be minimized or addressed. A refusal by the reporting party to participate, however, may impede the ability of AST to meaningfully investigate.
- 12.8 The SMU Sexual Violence Case Manager shall maintain data on anonymous or third-party reports.
- 12.9 Information provided by third party or anonymous sources may inform training or education to address systemic concerns or other policy changes at AST.

## **PROHIBITION ON SEXUAL ACTIVITY BETWEEN UNIVERSITY EMPLOYEES AND STUDENTS**

### **Prohibition on Sexual Activity**

13.1 Sexual activity between a student and a member of the teaching staff is prohibited when the staff member:

- i. Is in a position of academic authority over the student
- ii. Might in the foreseeable future be in a position to exercise authority over a student
- iii. Has or may have an influence over the student's academic progression or
- iv. Collaborates academically with the student.

\*Exception for those who are in a relationship or have marital status prior to the commencement of classes (e.g., spouse taking a class)

13.2 Sexual activity between a student and university leadership employees (President, Vice President(s), Associate Vice President(s), Dean(s) and Director(s)) is prohibited when the staff member:

- i. Is in a position of authority over the student
- ii. Might in the foreseeable future be in a position to exercise authority over said student
- iii. Has or may have an influence over the student's future enrolment

\*Exception for those who are in a relationship or have marital status prior to the commencement of classes (e.g., spouse taking a class)

13.3 Sexual Activity between a student and University Employees (not included in Sections 13.1 and 13.2 above) may be prohibited on the basis of position responsibilities. This prohibition will be identified as part of the employment obligations for these positions.

### **Other Sexual Activity Strongly Discouraged**

13.4 Sexual activity between teaching staff and students, in circumstances other than those described and prohibited above, in s.13.1 is strongly discouraged.

### **Mandatory Declaration**

13.5 If a member of the teaching staff and a student engage in sexual activity, the teaching staff member must declare this engagement within 48 hours of the occurrence.

13.6 A declaration pursuant to Section 13.6 is to be made to the Academic Dean or the Chief Administrative Officer in the prescribed form.

13.7 A declaration made pursuant to s. 13.5 shall not be disclosed or used without the consent of the teaching staff except:

- i. to ensure ongoing compliance with this Policy, and in particular s. 13.1;
- ii. to determine whether this Policy has been breached;
- iii. in any investigation or proceeding arising out of a breach or potential breach of this Policy or any other university Policy or Collective Agreement; or
- iv. as required by law.

- 13.8 Teaching staff may request the Academic Dean remove a Section 13.5 declaration from the official file when all of the following conditions are met:
- i. It has been at least four years since the disclosure was made;
  - ii. The student is no longer a current AST student; and
  - iii. The teaching staff has not further breached this Policy.
- 13.9 Upon the coming into effect of this Policy, all teaching staff must declare past and current sexual activity with any current AST students in a timely manner in accordance with Section 13.7 above, whether or not the sexual relations occurred or commenced prior to the coming into force of this Policy.

### **Application to Graduate Students**

- 13.10 This Policy does not apply to sexual activity between graduate students who also hold teaching positions, so long as one of the graduate students is not in a position of authority over the other graduate student.

### **Presumption of Policy Breach**

- 13.11 Where a teaching staff member fails to disclose sexual activity with a student in accordance with this Policy, it is presumed that the relations are a breach of this Policy.

## **COLLECTION AND USE OF INFORMATION**

- 14.1 AST collects personal information under this Policy for the purposes of:
- i. Ensuring the safety of individuals and the university community
  - ii. Respecting and protecting the rights of individuals at the university, including under the Nova Scotia Human Rights Act and Occupational Health and Safety Act
  - iii. Respecting and enforcing the rights of persons who disclose or report sexual violence in accordance with the Nova Scotia Human Rights Act, including the right to an appropriate and fair procedure in response to a report of sexual violence, the right to know the outcome of that process and the right to challenge the procedure or outcome, whether internally or through other legal remedies
  - iv. Respecting and enforcing the rights of persons who are respondents to disclosures or who report sexual violence, including the right to an appropriate and fair process in response to a report of sexual violence, the right to know the outcome of that process, and the right to challenge the process or outcome, whether internally or through other legal remedies
  - v. Ensuring the integrity and fairness of the processes under this Policy
  - vi. Providing appropriate information to the reporting party or reporting party and to the respondent
  - vii. Receiving disclosures and responding to disclosures of sexual violence
  - viii. Conducting an investigation or proceeding that could lead to a disciplinary or remedial measure, and
  - ix. Collection of data on sexual violence that will be de-identified/aggregated.

## **AGGREGATE DATA COLLECTION**

- 15.1 The SMU Sexual Violence Case Manager shall maintain aggregate data, which shall be published annually, on:
- i. The number of disclosures received
  - ii. The nature of the disclosures in terms of whether they involved:
    - sexual assault
    - sexual harassment
    - social or electronic media
    - on or off campus incidents (or other/not known)
    - whether the identity of the respondent was disclosed
    - alternative measures requested or accessed.
  - iii. The number of disclosures that involved allegations of student peer-on-peer sexual violence
  - iv. The number of anonymous and third-party reports
  - v. The number of disclosures that proceeded to a formal report, and
  - vi. The outcome of those reports (finding/no finding) at the investigation stage and/or on review.
- 15.1 The SMU Sexual Violence Case Manager should also report annually on information on any observable trends.
- 15.2 The data published by the SMU Sexual Violence Case Manager shall not disclose any personal identifying information.