

Policy 6030: Sexualized Violence Prevention and Response

A. PURPOSE

Selkirk College is committed to maintaining a respectful, safe, and secure environment, free of all forms of sexualized violence for members of the College Community.

This policy clearly communicates Selkirk College's commitment to creating an environment where consent and respect are understood as foundational principles. This will be done by:

1. Developing, implementing, and actively promoting education & training programs related to awareness and prevention of sexualized violence, consent, healthy relationships and supports for survivors.
2. Using clear and trauma-informed language when speaking or writing about sexualized violence.
3. Responding to and addressing disclosures and/or reports of sexual violence respectfully while ensuring that the barriers to disclosing and reporting are acknowledged and minimized.
4. Adopting clear and fair procedures for responding to incidents of sexualized violence, and
5. Ensuring that survivors, those impacted by sexualized violence and respondents, have access to appropriate support.

B. SCOPE/ LIMITS

1. This policy applies to all members of the College Community.
2. All members of the College Community who are survivors or those impacted by sexualized violence may access support under this policy. However, legal authority to investigate under this policy is limited to circumstances where all the following apply:
 - a) the allegation must be made against an individual who was a member of the College Community at the time of the alleged sexualized violence,
 - b) the alleged conduct must fall within the definition of sexualized violence,

- c) the alleged conduct must have a real and substantial connection to Selkirk College.

If an incident does not meet the above criteria, Selkirk College may still take steps to mitigate the impact of the incident on the learning or working environment.

- 3. Selkirk College does not have jurisdiction to investigate allegations against a person who is not a member of the College Community or otherwise affiliated with Selkirk College. However, under certain circumstances, Selkirk College can revoke visitors' access to Selkirk College property.
- 4. Where a Respondent is no longer a member of the College Community, an investigation may still ensue; however, the College may have limited ability to investigate and apply sanctions.
- 5. In circumstances involving a significant lapse of time, procedural challenges may arise that impact Selkirk College's ability to investigate. The delay in and of itself will not be considered as an indication that the incident did not occur.
- 6. This policy is separate from any criminal or civil proceedings. Selkirk College is only responsible for determining whether a member of the College Community has violated this policy; Selkirk College is not responsible for determining whether a member of the College Community has violated criminal or civil law.
- 7. Processes under this policy may be suspended when related criminal proceedings are underway. During such a time, Selkirk College will continue to provide support to members of the College Community as per the terms of this policy, this could include interim measures pending the outcome of the criminal process.
- 8. This policy does not limit or conflict with the rights provided for in Selkirk College's Collective Agreements and Common Agreements or related policies.

C. PRINCIPLES

This policy is based on the following principles:

- 1. Sexualized violence and the condoning of rape culture is unacceptable and is prohibited conduct at Selkirk College.
- 2. Selkirk College is committed to providing comprehensive and inclusive sexualized violence education. Through these initiatives, Selkirk College is committed to promoting a culture of consent.
- 3. Selkirk College recognizes that people's experiences will be affected by factors such as their access to power and privilege, their sex, sexual identity, gender identity or

expression, racialization, age, family status, religion, faith, ability, disability, national or ethnic origin, Indigeneity, immigration status, socio-economic status, class, and language. Selkirk College also recognizes that the College is an environment in which power imbalances are inherent, and that sexualized violence is a significant and systemic social and campus issue that can affect anyone at the college. Selkirk College will consider this when carrying out its responsibilities under this policy.

4. Selkirk College will promote a culture that supports and facilitates the Disclosure or Report of sexualized violence under this policy, understanding and acknowledging that those who have experienced sexualized violence may be traumatized by their experience.
5. Selkirk College is committed to reducing barriers to Disclosing and Reporting and to taking a survivor-centered and trauma-informed approach when responding to Disclosures and Reports and conducting investigations.
6. Selkirk College is committed to procedural fairness. All parties involved in a Disclosure, Report, or investigation have the right to be provided information about the process, seek clarification about the process, and be accompanied by a support person of their choice at all stages of the process.
7. Selkirk College recognizes that privacy and maintaining dignity and control of personal information is particularly important to those who have experienced sexualized violence or misconduct. Any personal information collected and maintained under this policy is subject to the Freedom of Information and Protection of Privacy Act.
8. Selkirk College will provide support services and accommodations to members of the College Community who Disclose or Report sexualized violence, including supporting the rights of people who make Disclosures to choose whether to access support, whether to make a Report, or whether to pursue external processes such as criminal or civil action.
9. Except in cases where the College has an obligation to investigate or advise a third party, or where a significant risk of harm to any person's health and safety exists, the survivor or those impacted by sexualized violence will have the right to determine if they wish to make a Report. The survivor or those impacted by sexualized violence may change their mind and decide to either initiate or withdraw their Report at any time.
10. Selkirk College supports are available to assist survivors and those impacted by sexualized violence in ensuring physical safety, obtaining medical care or emotional support, or preserving evidence. Information on accessing assistance and external and internal resources is in the Procedures document.

11. Selkirk College recognizes that some survivors and people directly impacted by sexualized violence may be reluctant to disclose or report sexualized violence for a variety of reasons. One reason may be a fear of being disciplined for alcohol or substance use. The college aims to create an environment where complainants and people impacted by sexualized violence feel comfortable disclosing or reporting it. As a result, Selkirk College will not subject any individual who discloses or reports sexualized violence to disciplinary action for alcohol or substance use occurring at or near the time of the incident(s).
12. Investigations will be bound by Rape Shield provisions; survivors or those impacted by sexualized violence will not be asked about their previous sexual history.
13. Retaliation of any kind is unacceptable and is prohibited at Selkirk College. Any member of the College Community found to have engaged in retaliation may be sanctioned under this policy, other Selkirk College policies, or the applicable collective agreement.

This policy will be in keeping with the Canadian Charter of Rights and Freedoms, BC Human Rights Code, BC Freedom of Information and Privacy Act, the Criminal Code of Canada, and BC's Workers Compensation Act.

D. DEFINITIONS

Actionable: When a report is made by a survivor, or someone impacted by sexualized violence with the intention of initiating an investigation or alternate process.

Accommodation: Changes or adjustments offered to survivors to support them to engage in Student Life and college academic or work routines. These adaptations do not need a formal medical assessment.

Alternate Process: a voluntary process used to resolve an issue without a formal investigation. The goal of an alternate process is to promote reconciliation, settlement, or understanding among those involved. An alternate process will only be used if all parties agree to participate in good faith.

Balance of Probabilities: The standard of proof in which the probability of an event occurring is greater than fifty percent.

College Community members include:

- a) registered Selkirk College students, past and present;
- b) all employees of Selkirk College;
- c) contractors and third parties required by contract to comply with Selkirk College policies and procedures;
- d) members of the Selkirk College Foundation and donors;
- e) members of the Board of Governors; and

- f) all other persons granted access to Selkirk College property or resources

Complainant: A survivor or someone impacted by sexualized violence who makes a report alleging a violation of this policy.

Consent: Active, direct, voluntary, and conscious choice and agreement to engage in, or continue to engage in physical contact or sexual activity. More specifically:

- Consent is required every time there is sexual activity, regardless of the parties' relationship, prior sexual history, or current activity;
- Consent can be withdrawn at any time and must be confirmed at each phase of a sexual encounter;
- Consent can only be given by the people directly engaged in the physical contact or sexual activity;
- Consent cannot be implied or assumed. It is *not* silence, passivity, coerced acquiescence, body movements, non-verbal responses such as moans, laughter, or the appearance of physical arousal;
- Someone incapacitated through drugs, or alcohol, being asleep or unconscious, or because they are experiencing a traumatic response cannot give consent; and
- There is no consent when one person uses coercion or abuses a position of power/authority over another person.

Disclosure: The sharing of information regarding sexualized violence to a member of the College Community to obtain support, guidance, information and/or referral. A disclosure does not (typically) initiate an investigation unless a formal report is made.

Incapacitated: means someone who lacks the capacity to give consent because they cannot appreciate the who, what, when, where, why, or how of a physical contact or sexual activity. Someone may become incapacitated through the use of alcohol or drugs because they are asleep or unconscious, or because they are experiencing a traumatic response.

Investigation: An information gathering process in response to a Report undertaken to determine whether it is more probably than not that this policy has been breached. An Investigation may include, but is not limited to witness interviews, collection and review of written statements, notes, logs, papers, digital and print records, and any other relevant material. Investigation will be undertaken in a timely manner and may result in disciplinary action.

Non-actionable: When a survivor or someone impacted by sexualized violence is making a Disclosure without wishing to proceed to an investigation.

Procedural Fairness: provides parties with a fair process in resolving disputes. Describes a fair, transparent process that complies with the principles of natural justice. This means:

- a) Listening to both sides of the narrative - any person who is being accused of something has the right to know the accusation and must be given a reasonable

opportunity to respond to the accusation, to offer rebuttals, and to provide counter evidence.

- b) No person shall be a judge in their own case, and every person has the right to an unbiased and independent decision maker.

Rape Culture: A culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexualized violence and by blaming those impacted for their own abuse.

Rape Shield Protection: Limits the ability to introduce evidence or cross-examine complainants about their past sexual behaviour. See more information about Rape Shield Protections at <https://sfcccanada.org/glossary>

Report: A formal notification to the College of an incident of sexualized violence with the intent to initiate an investigation or alternate resolution. It should include a record of the date(s), time(s), and nature of the incident(s) and the names of the witnesses, if applicable. The report must contain enough detail to allow the college to assess the incident and investigate it. A report can be made by a person who has experienced sexualized violence or who has been a witness to sexualized violence.

Respondent: The person named in a formal report to the College to have committed sexualized violence.

Sexualized Violence: Any act targeting an individual's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened, or attempted against an individual without that individual's consent. Sexualized violence can take place through any form of communication, including verbal, written, visual, digital, or through a third party. This includes all forms of sexual misconduct set out in the BC Sexual Violence and Misconduct Policy Act, including but not limited to:

Sexual Assault: Any kind of sexual contact or threat of sexual contact without mutual consent. It can occur when the accused is a spouse, dating partner, friend, or acquaintance, known person in a position of authority, or a stranger.

Sexual Harassment: Unwanted communications or actions that are sexual in nature and that are offensive, intimidating, or humiliating. It can take many forms, including verbal, written, or visual. It includes unwanted touching, offensive jokes, sexual requests, and verbal abuse.

Sexual Exploitation: Any instigation of sexual activity, or attempt to instigate sexual activity, by someone in a position of trust, power, or authority over the person at whom those actions are directed.

Stalking: In the context of this policy, stalking is a form of sexual violence involving behaviours of a sexual nature that occurs on more than one occasion and which instills fear in an individual or threatens an individual's safety or mental health. These behaviours include, but are not

limited to, non-consensual communications (face-to-face, phone, email, social media), online cyber harassment, threatening or obscene gestures, surveillance, sending unsolicited gifts, “creeping” via social media (cyberstalking) and uttering threats.

Indecent exposure: Exposing one’s body to another person for a sexual purpose or coercing another person to remove their clothing to expose their body without their free will.

Distribution of sexually explicit photographs and videos: Non-consensually sharing a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without consent of the person in the photograph or video and with the intent to distress the person in the photograph or video, or reckless distribution of such a photograph or video without the intent to distress.

Stealthing: Removing a condom during sexual intercourse without a partner’s knowledge or consent.

Voyeurism: Non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing, or recording is done for a sexual purpose.

Support Person: A person present at meetings at the request of the involved party to assist with understanding the process and discussions. This person will not provide comments during the meetings and must not be in conflict of interest. A union representative or legal counsel may serve as a support person. Others deemed appropriate by the Manager of Human Resources or Director of Student Engagement and Wellness or their designates may also be considered.

Trauma-informed: Incorporating an understanding of the impact that sexualized violence can have on a person’s life, to minimize possible re-victimization, and to support recovery and empowerment.

E. RELATED POLICIES AND RESOURCES

- 3400 Student Code of Conduct, Rights and Responsibilities
- 6000 Standards of Employee Conduct and Conflict of Interest
- 6010 Human Rights, Harassment & Discrimination
- 6035 Investigation
- 6400 Prevention of Violence in the Workplace
- 7110 Acceptable Use of Electronic Resources
- 8619 Student Probation
- 6550 Protection of Privacy
- [Sexual Violence and Misconduct Policy Act](#)
- [Criminal Code of Canada](#)
- [Rape Shield Protections](#)
- [Taking Courageous Action](#)
- [WorkSafeBC](#)

Responsibility, Recommendation and Approval Dates

Executive Responsibility: President

Administrative Responsibility: Director Student Engagement and Wellness (re: students) and Executive Director of Human Resources (re: employees)

Recommended by Policy Review Committee: 2024-06-25

Recommended/Approved by Education Council: N/A

Approved by President: August 26, 2024



Signature

August 26, 2024

Date

Linkage to Board Policy: E30 Value Statements and Pillars of Success