



GENDER-BASED VIOLENCE POLICY

Burman University

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INTRODUCTION

Burman University recognizes that Sexual and Gender-Based Violence is an issue that impacts society, including post-secondary campuses. The United Nations Refugee Agency-Emergency Handbook defines Sexual and Gender-Based Violence (SGBV) as: “any act that is perpetrated against a person's will and is based on gender norms and unequal power relationships. It includes physical, emotional or psychological, and sexual violence and denial of resources or access to services. Violence includes threats of violence and coercion. SGBV inflicts harm on women, girls, men and boys and is a severe violation of several human rights.”¹.

Burman University is committed to providing all individuals with a safe, positive learning and living environment free of Sexual and Gender-Based Violence. Burman University prohibits all forms of Sexual and Gender-Based Violence, including, but not limited to: sexual assault, sex-based intimidation, sexual harassment, intimate partner violence, and stalking.

Burman University recognizes the harm caused by a culture in which common attitudes, norms, and practices tolerate, normalize, trivialize, excuse or outright condone Sexual and Gender-Based Violence. The University also recognizes the cultural and structural contexts that influence increased rates of Sexual and Gender-Based Violence among marginalized individuals and will therefore implement this policy with an intersectional lens. Instances of Sexual and Gender-Based Violence, in any form, will not be tolerated at Burman University. Should such issues arise, this policy outlines procedures designed to effectively address these issues in a timely manner, prevent recurrence, and support individuals impacted. This policy is not and should not be construed as an alternative or replacement for the criminal justice system. Instead, it provides avenues through which the campus community may work to create a healthy learning environment.

A trauma-informed approach has been used in the development of this policy. The definition from Ending Violence Association in BC states, “being trauma-informed with the campus context refers to understanding the impacts of Sexual and Gender-Based Violence on survivors (and others) and responding in a manner that promotes their empowerment and recovery and minimizes retraumatization”.² As such, the following principles apply to this policy:

- Acknowledging the impact of trauma as a result of Sexual and Gender-Based Violence;
- Using the terminology *individual with lived experience* when referring to someone who has experienced Sexual and Gender-Based Violence;
- Empowering those with lived experience by maximizing choices and control in the process;
- Ensuring those involved are treated with dignity and respect;

¹ The UN Refugee Agency – Emergency Handbook: <https://emergency.unhcr.org/entry/60283/sexual-and-gender-based-violence-sgbv-prevention-and-response> (retrieved June 7, 2022)

² Ending Violence Association of BC, Campus Sexual Violence Guidelines for a Comprehensive Response, (May 2016) http://endingviolence.org/wp-content/uploads-2016/05/EVABC_CampusSexualViolenceGuidelines_vF.pdf

- Respecting the privacy of the individual with the lived experience.

THE UNIVERSITY WILL

- Respond to and review every reported complaint in a timely manner.
- Provide involved parties with available resources that are appropriate in the circumstances, such as mental and physical health care providers and campus policies on Sexual and Gender-Based Violence.
- Provide remedies when SGBV that is covered by this policy is determined to have occurred.
- Enact appropriate sanctions in a case-by-case manner when SGBV that is covered by this policy is determined to have occurred.
- Protect the privacy of all those involved to the extent it is possible and where protecting that privacy does not put the individual or others at risk.

Burman University recognizes that the impacts of Sexual and Gender-Based Violence can be devastating for individuals with a lived experience. Burman University is committed to addressing all forms of Sexual and Gender-Based Violence through educating the campus community and implementing our institutional disciplinary process.

1.0 PURPOSE:

- 1.1 Sexual and Gender-Based Violence is a serious problem in society and on post-secondary campuses. Statistics find that 1 in every 5 women will experience sexual violence while studying at a post-secondary institution³. In addition, statistics find that 1 in 6 men will experience sexual violence in their lifetimes.⁴ Through this policy, Burman University is committed to addressing Sexual and Gender-Based Violence in the university community through support, awareness, education, training, prevention programs, and appropriate handling of incident Disclosures and Formal Complaints.
- 1.2 This policy intends to set out a consistent process for responding to sexual and gender-based violence that ensures that:
 - 1.2.1 Those who experience sexual and gender-based violence are treated with dignity and respect, and their rights are respected.

³ Statistics Canada (2013). Measuring Violence Against Women: Statistical Trends. www150.statcan.gc.ca/n1/en/pub/85-002-x/2012/article/11766-eng.pdf

⁴ Rape, Abuse & Incest National Network, "Victims of Sexual Violence: Statistic." www.rainn.org/statistics/victims-sexual-violence

- 1.2.2 Members of the Burman Community understand their respective rights and obligations when reporting or responding to sexual and gender-based violence.
- 1.2.3 Those accused of committing sexual and gender-based violence are treated fairly and in a manner that ensures due process.

2.0 SCOPE:

- 2.1** This policy applies to any form of Sexual and Gender-Based Violence that is sufficiently severe, pervasive, or persistent in denying or limiting an individual's ability to participate in or benefit from any program or educational opportunity provided by Burman University.

This policy applies to actions, interactions and behaviours of Members of the Burman Community that take place:

- 2.1.1 on University premises. The policy includes all members of the Burman community: all employees, board members, students, contractors, suppliers of services, individuals who are directly connected to any University initiatives, volunteers, and visitors; or
 - 2.1.2 off University premises where a Member of the Burman Community is involved in the business of the University or activities related to the University or is representing the University; or
 - 2.1.3 Burman Community members engaged in online/virtual university-related events (including but not limited to photos, online classes, text messages, social media, etc.); or
 - 2.1.4 off University premises where such actions, interactions or behaviors have a negative impact on a Member of the Burman Community such that it materially interferes with their University learning, working or living environment.
- 2.2** This policy operates alongside other applicable University policies and procedures, such as the Harassment Policy. Where there is a conflict or inconsistency between the policy provisions and another University policy or procedure, this policy governs to the extent necessary to resolve the conflict or inconsistency. The University recognizes that Sexual and Gender-Based Violence is a unique area which requires a unique set of policies and procedures.
 - 2.2.1 It should be noted that harassment does not include verbal expressions or written material that is relevant and appropriately related to course subject matter or curriculum or are an articulation of religious beliefs or practices on which Burman University is founded. The policy does not limit classroom teaching concerning sexual topics legitimately associated with the content or purposes of a course, even though such topics may elicit discomfort in a class member. Nor is this policy intended to limit scholarly research, publication, or public speaking on gender-

related topics. The policy also does not limit or preclude the teaching and dissemination of religious beliefs, including those in relation to sexual conduct.

2.2.2 All Burman Community members must comply with the outlined policy and procedures to address complaints. Any Sexual and Gender-Based Violence complaint filed under the University's policy shall be processed even if the reporting party also files a complaint or suit with an outside agency. Retaliation against anyone who files a report or participates in the investigative process in good faith will not be tolerated.

2.3 Burman University will investigate Formal Complaints of Sexual and Gender-Based Violence to determine if the Sexual and Gender-Based Violence policy has been violated. Burman will not investigate or act upon the criminal aspects of a complaint. The sole intent of an investigation is to determine if the policy has been violated.

3.0 GUIDING PRINCIPLES

3.1 All persons who Disclose or make a Formal Complaint of Sexual and Gender-Based Violence can expect to be treated with compassion, dignity, and respect.

3.2 All persons who Disclose or make a Formal Complaint of Sexual and Gender-Based Violence will be:

- provided non-judgmental support;
- provided with timely safety planning assistance; and,
- informed about on and off-campus support services and resources available to them.

Burman University will not use information from the Disclosure or Formal Complaint of Sexual and Gender-Based Violence to institute disciplinary actions on individuals associated with the University for alleged possession and/or use of alcohol or drugs.

3.3 The University recognizes that individuals affected by Sexual and Gender-Based Violence are integral decision-makers in situations pertaining to themselves and should be allowed to determine whether and to whom they wish to Disclose or make a Formal Complaint, including:

- whether or not to pursue formal criminal and/or internal University avenues of redress; and,
- whether or not to disclose to a support person and seek out support services.

3.4 The University will put reasonable academic, housing and other accommodations in place for persons who disclose or make a Formal Complaint of Sexual and Gender-Based Violence, as appropriate to individual circumstances.

3.5 The University will implement appropriate measures to prevent further unwanted contact with alleged perpetrators protecting the safety and security of the Burman Community.

- 3.6 The University will provide Respondents appropriate support and advice related to all University procedures under this policy.
- 3.7 Burman University is committed to providing a fair process and will adhere to the principles of fairness in all processes under this policy.
- 3.8 Burman University is committed to reducing barriers to and increase awareness of policies, procedures and supports available to students in responding to and addressing Sexual and Gender-Based Violence.
- 3.9 Burman University developed this policy to create a system of reporting, investigation and decision-making in response to Complaints of Sexual and Gender-Based Violence; to avoid conflicts of interest or reasonable apprehension of bias; to minimize the risk of reprisal, and to ensure coordination and consistency across the University.

4.0 DEFINITIONS:

No policy document can give a complete description and definition of behaviours that fall within the meaning of Sexual and Gender-Based Violence. [Appendix I](#) lists examples of behaviours that can fall within these definitions; however, the list is not exhaustive.

Balance of Probabilities: Saying something is proven on a balance of probabilities means that it is more likely than not to have occurred. It means that it is probable, i.e., the probability that some event happens is more than 50%.

Burman Community: Includes all students, employees, volunteers, administrators, contractors and the board of directors.

Consent: The ongoing voluntary agreement to engage in the sexual activity in question. Consent is clear, knowing, and voluntary. For an expanded definition, see 5.3.2.

Complainant: A person who makes a Formal Complaint under this policy.

Dating Violence/Intimate Partner Violence: When controlling, abusive, or aggressive behaviors are used by one person to gain power over the other. It can happen in all types of romantic relationships. Also, controlling, abusive, or aggressive behaviors can include physical violence, the threat of physical violence, emotional, mental, or sexual abuse or a combination of these.

Disclosure: Information shared about a personal experience of Sexual and Gender-Based Violence to someone who did not previously know. Individuals who make a Disclosure are entitled to access the supports, accommodations and other resources outlined in this policy without making a Formal Complaint.

Distribution of Sexually Explicit Media: Distributing sexually explicit photographs or recordings of an individual to others without their consent.⁵

Drug Facilitated Sexual Assault: The use of alcohol or drugs to compromise an individual's ability to consent to sexual activity.⁶

Force: The use of physical violence and/or imposing on someone to gain sexual access, including threats, intimidation, and coercion that overcome resistance or produce consent. The presence of force does not require the absence of resistance. Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not by definition forced.

Formal Complaint: a formal allegation made by an individual affected by Sexual and Gender-Based Violence invokes the investigatory and adjudicative procedures in this policy. Students affected by Sexual and Gender-Based Violence are not required to make a formal complaint regarding an incident of Sexual and Gender-Based Violence to access the supports, accommodations or other resources outlined in this policy.

Gender-Based Violence: violence that is committed against someone based on their gender, perceived gender, gender expression, sexual orientation or perceived gender. It can be both physical and non-physical and include a range of behaviors⁷. GBV can take many forms and include sexual, physical and psychological as well as threats of violence, manipulation, harassment and coercion.

Gender-inclusive Approach: recognizing that individuals of any gender or sexual orientation may perpetrate and/or experience Gender-Based Violence.

Incapacitation: A state where an individual cannot make a rational or reasonable decision because they lack the ability or information to understand the sexual interaction to the fullest extent. Incapacitation can result from mental or physical disabilities, drug or alcohol use, physical restraints, 'date-rape' drugs or anything that affects the individual's ability to make a clear and informed decision. Incapacitation occurs anytime sexual activity occurs where the alleged victim does not understand the 'who, what, when, where, why and how.'" Even if a person gives consent while incapacitated, the consent is invalid.

Interim Measures: Refers to actions put into place with the goal to: stop the alleged behavior, prevent future harmful behavior, allow an investigation to proceed and/or create a safe working/learning space. Interim Measures are not a punishment, nor does it imply misconduct. Interim measures will be designed to address each particular situation.

Intimidation: The act of using coercion, instilling fear, or making threats to induce submission, compliance, or acquiescence from another.

⁵University of British Columbia Sexual Assault and Sexual Misconduct Policy

⁶ [Rainn.org/articles/drug-facilitated-sexual-assault](https://rainn.org/articles/drug-facilitated-sexual-assault)

⁷ Government of Alberta: <https://www.alberta.ca/gender-based-violence-prevention.aspx#jumplinks-0>

Investigative Lead: the individual assigned to oversee all aspects of the investigative process, including reporting, investigation and decision-making procedures under the policy (additional supports, accommodation, if required). It may be internal or external to the University. This individual will have training in the following: Gender-Based Violence, trauma-informed approaches, intersectionality, and understanding the impacts of Sexual and Gender-Based Violence on an individual.

Investigator: an individual assigned to assist the Investigative Lead in conducting an investigation into a Formal Complaint. It may be internal or external to the University. This individual will have training in investigating cases of Sexual and Gender-Based Violence.

Non-Consensual Sexual Contact: Any intentional sexual touching, however slight, with any object, by an individual or group or upon another individual or group without consent and/or by force.

Members of the Burman Community: Persons involved in conducting University affairs, including all students, employees, volunteers, administrators, contractors and the board of directors.

Procedures: Procedures adopted to carry out this policy, adopted in accordance with Section 10.2. Click to read the [Sexual and Gender-Based Violence Reporting Procedures](#).

Respondent: The person alleged in a Formal Complaint to have violated this policy.

Retaliation: Any adverse action taken against a Member of the Burman Community because that person has, in good faith, made a Disclosure, filed a Formal Complaint, supported the filing of a Formal Complaint, disclosed information to the University about a Formal Complaint, and/or participated in an investigation of such Formal Complaint, and includes threats of retaliation.

Senior Officer: Senior Officer means the most senior officer in student services.

Sexual Assault: Sexual assault is non-consensual sexual actions done by an individual to another. It includes any unwanted sexual acts from touching to penetration, including the use of force, threats, or control of another person that makes someone feel fearful, distressed, or threatened or is carried out in a way that an individual is unable to consent to such actions freely. Sexual assault is determined by lack of consent, not by the act itself. Sexual assault is a criminal offense under the Criminal Code of Canada.

Sexual Contact: Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifices.

Sexual Exploitation: When a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the

one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation include:

- Invasion of sexual privacy
- Non-consensual video or audio-taping of a sexual nature
- Going beyond the boundaries of consent (such as letting friends view you having consensual sex without the other party knowing)
- Sexually-based stalking and/or bullying
- Engaging in voyeurism
- Knowingly transmitting an STI or HIV to another person

Sexual Harassment: Unwelcome sexual advances, requests for sexual favours, or other unwanted or unwelcome verbal or physical conduct of a sexual nature. Incidents of sexual harassment include, but are not limited to:

- Any implied or expressed threat of reprisal for refusing to comply with an implied or expressed sexually-oriented request or advance;
- Non-consensual posting of pictures, aggressive comments and slurs on any form of social media;
- Physical contact of sexual natures (including Sexual Assault under the *Criminal Code of Canada*);
- Sexual conduct that interferes with an individual's dignity or privacy such as voyeurism and exhibitionism.

Sexual Violence: Sexual violence means any non-consensual, unwanted actual, attempted, or threatened act or behaviour, that is carried out through sexual means or by targeting a person sexually, or targeting a person's sexuality. This act or behaviour may or may not involve physical contact. This includes, but is not limited to, all sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, degrading sexual imagery, or the taking or distribution of sexual images or video of a Member of the Burman Community without their consent.

Stalking: A form of criminal harassment prohibited by the *Criminal Code of Canada*. It involves behaviours that occur on more than one occasion and collectively instill fear in the individual or threaten their safety or mental health. Stalking can also include threats of harm to the target's friends and/or family. These behaviours include, but are not limited to, non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; 'creeping' via social media/cyber-stalking.

Trained Responders: The group of Members of the Burman Community with specialized training to support individuals with a lived experience of sexual violence. Trained Responders will include, but are not limited to, the following:

- Vice President of Student Services
- Director of Sakala Success Centre
- Counselor - Sakala Success Centre
- Campus Safety and Transportation Manager
- Residence Dean(s)

- Campus Chaplain(s)
- Faculty (1-3)
- Human Resources Director

Examples of Inappropriate Sexual Conduct

Some examples of conduct prohibited by this policy include, but are not limited to:

- **Direct or implied threats** that submission to sexual advances or rejection of sexual advances will be a condition of employment, work status or assignments, promotion, grades, letters of recommendation, salary, academic standing, or receipt of financial aid;
- **Persistent or unwelcome flirtation, advances, and/or propositions** of a sexual nature, intimidating conduct which exerts pressure for sexual favors, including inappropriate behaviour or offensive advances (e.g., sexual propositions when the other person has made it clear that they are not interested) without the threat of punishment for noncompliance and without a promise of reward for compliance;
- **Repeated insults, humor, jokes, and/or stories** that belittle or demean an individual, and physical conduct or verbal innuendo which, because of one's gender or orientation, creates an intimidating, hostile, or offensive environment;
- **Repeated unwelcome comments** of a sexual nature about an individual's body or clothing;
- **A pattern of conduct** in class, in the workplace, or in the general campus environment that a reasonable person would identify as creating a sexist atmosphere; that is, an atmosphere that demeans or oppresses people simply by their gender. Examples of such patterns of conduct might include persistent denigration of individuals through sexist humor or remarks, assignments according to the gender of tasks that are not gender-specific, or other activities that, by alienation or discouraging members of one sex, tend to impair their academic or professional performance or their ability to function within the community (e.g., hanging of signs which depict individuals in a sexually derogatory manner, yelling sexist remarks from windows as an individual walks by); and/or;
- **Behaviour that would cause discomfort or humiliate** a reasonable person through one or more of the following:
 - Inappropriate touching, patting, pinching, unwanted hugging, or brushing against a person's body;
 - Remarks of a sexual nature about a person's clothing or body;
 - Remarks about sexual activity or speculation about previous sexual experiences of sexual orientation, or other sexually suggestive comments or insults.

5.0 GENERAL RESPONSIBILITIES:

5.1 General Prohibitions and responsibilities

No Member of the Burman Community, or non-member while on University premises or participating in a University-related event (on or off University premises), may engage in any form of Sexual and Gender-Based Violence against another person.

5.2 Education, Training and Prevention

- 5.2.1 The University is committed to supporting ongoing education and awareness initiatives for Members of the Burman Community about Sexual and Gender-Based Violence prevention and responding to reporting incidents of Sexual and Gender-Based Violence.
- 5.2.2 The University will work with on and off-campus partners to develop an annual education strategy that includes campaigns, training sessions, workshops, print and online resources, programs and events on a breadth of topics related to Sexual and Gender-Based Violence on campus – topics that include but are not limited to rape culture, Sexual and Gender-Based Violence awareness, how to seek support, resources for those with a lived experience, pornography, advice and resources for First Responders, etc. The audience for these efforts would include staff, faculty, students and visitors to our campus. A particular emphasis will be placed on educating new Members of the Burman Community about this issue through student, staff, and faculty orientation activities.
- 5.2.3 All Members of the Burman Community are responsible for contributing to the prevention of, intervention in, and effective response to, Sexual and Gender-Based Violence through compliance with this policy and associated procedures.
- 5.2.4 All faculties and departments are encouraged to include education related to Sexual and Gender-Based Violence in course materials and other community programs where appropriate.
- 5.2.5 For more information on training, see [Appendix II](#).

5.3 Consent

If you are interested in reading the Burman University Sexuality Statement, please click [here](#).

- 5.3.1 The University is committed to providing education regarding consent and its relationship to Sexual and Gender-Based Violence.
- 5.3.2 Consent means the voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behavior and requires that a person can freely choose between two options: **yes and no**. This means there must be an understandable exchange of affirmative words, which

indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication must NEVER be interpreted as consent, and a person in a state of diminished judgment cannot consent. Consent is active and not passive or silent.
- A person is incapable of giving consent if incapacitated by drugs or alcohol, asleep, unconscious or otherwise lacking the capacity to consent.
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is NOT consenting to it.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
- Consent is required regardless of the parties' relationship status or sexual history together. The fact that consent was given before does not mean that consent is deemed to exist for all future sexual activity.
- Consent can be revoked at any time, whatever other sexual activities have taken place;
- Consent can never be obtained through an abuse of power, threats, intimidations, coercion, manipulation, misrepresentation or other pressure tactics; and
- Consent cannot be obtained if the individual abuses a position of trust or authority. An example may include a teacher (who has the power to give a high mark in a course) is in a position of power over the students in the class.
- Consent cannot be given on behalf of another person.

5.3.3 It is the responsibility of the initiator of sexual activity to obtain consent at all stages of sexual engagement. It is also the initiator's responsibility to know if the person they are engaging with sexually is a minor.

Note: For information purposes only, the *Criminal Code* definition is in [Appendix III](#)

Consent: The voluntary agreement to engage in the sexual activity in question. No consent is obtained where:

- a) the agreement is expressed by the words or conduct of a person other than the complainant;
- b) the complainant is incapable of consenting to the activity;
- c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
- d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- e) the complainant, having consented to engage in sexual activity, expressed by words or conduct, a lack of agreement to continue to engage in the activity.

6.0 Disclosing and Responding to Sexual and Gender-Based Violence:

Burman University recognizes there may be circumstances that prevent individuals from disclosing an experience of Sexual and Gender-Based Violence. These can include fear of not being believed, being blamed for the incident, secondary victimization when reporting, minimization of the incident, embarrassment or shame, and fear of retaliation.

Burman University encourages all campus community members to report instances of Sexual and Gender-Based Violence. You may report an incident of sexual and gender-based violence if you are a victim or a third party aware of an instance of Sexual and Gender-Based Violence.

Certain Burman employees can maintain complete confidentiality, subject to applicable laws, and are not required to share the details of the incident with anyone else unless there is a concern for individual safety or the safety of others. Other Burman University employees may be required to share details of a report with Senior Officers so that Burman University may take steps to offer appropriate support services and prevent the recurrence of the incident. In these cases, the University will share personal information with as few people as possible and every effort will be made to maintain privacy.

Regardless of the reporting avenue an individual may choose, the University will make every effort to keep the disclosure/complaint as private as the claimant wants and let the claimant determine the course of action whenever possible.

Burman employees are responsible for taking necessary action to address and respond to incidents of Sexual and Gender-Based Violence as permissible by their professional guidelines, which are based on the capacity in which the University hired them. For example, those employed as mental health counselors may be exempt from disclosing instances of sexual assault they are dealing with if the individual does not pose a threat to themselves or the campus community. However, a faculty member who may also hold a degree in counseling would still be required to report since the University hired them in the capacity of faculty rather than a mental health counselor. Members of professions under the Alberta Health Act should review the policy requirements of their specific association or college.

Please ask if you need clarification on a staff or faculty member's reporting requirement. This policy is intended to make individuals aware of the various reporting and confidential disclosure options available so that individuals can make informed choices about where to turn should they become victims of or aware of Sexual and Gender-Based Violence.

To report sexual harassment or incidences of Sexual and Gender-Based Violence where both the complainant and Respondent are employees of Burman University, please refer to the Burman University [Harassment Policy](#).

For a distinction between a Disclosure and a Formal Complaint, see [Appendix IV](#).

6.1 Responding to Sexual and Gender-Based Violence

- 6.1.1 The University will maintain a section on its website providing resources that can assist individuals who are subjected to, have witnessed or know about an incident of Sexual and Gender-Based Violence.
- 6.1.2 The University will ensure that those likely to receive Disclosures, namely Trained Responders, full-time faculty and student leaders, receive training on responding to Sexual and Gender-Based Violence and carrying out this policy. The University will ensure persons likely to receive Disclosures will be provided with appropriate training and will keep current on this policy and its procedures.
- 6.1.3 A Trained Responder to Sexual Violence is best suited as the first point of contact for anyone subjected to Sexual and Gender-Based Violence. However, Members of the Burman Community who become aware of a possible incident of Sexual and Gender-Based Violence involving a Member of the Burman Community, whether through a Disclosure or otherwise, should:
- Assist the member of the Burman Community in accessing available support services, including connecting them with a Trained Responder to Sexual Violence;
 - Take appropriate action to prevent further Sexual and Gender-Based Violence from occurring, including alerting campus security and calling 911 where there is imminent risk; and
 - Report the incident to the applicable Senior Officer. *University staff, faculty and student leaders are required to report such incidents to the applicable Senior Officer.* Reporting may or may not need to include identifying information, depending on the circumstances and risk to other Members of the Burman Community. This should be discussed with the Senior Officer. A Trained Responder to Sexual Violence can help in this process, but the number of people involved should be minimized.
- 6.1.4 Alerting security or reporting an incident to the Senior Officer does not constitute a Formal Complaint.
- 6.1.5 Where the University becomes aware of incidents of Sexual and Gender-Based Violence by a Member of the Burman Community or against a Member of the Burman Community, the University will take reasonable steps to ensure the safety of individuals involved and the safety of Members of the Burman Community.

7.0 SUPPORT

There are a variety of supports available for the Complainant, Respondent and any witnesses. All reasonable attempts will be made to implement appropriate accommodations to support individuals involved in allegations related to Sexual and Gender-Based Violence.

7.1 Support Services

- 7.1.1 Supports are available to any Member of the Burman Community making a Disclosure, irrespective of whether that individual also chooses to pursue a Formal Complaint or a criminal complaint. Available supports may include counselling, pastoral care, peer support and referrals to off-campus services such as health services and cultural support. An individual safety plan will be developed where necessary.
- 7.1.2 Students who feel the need for academic modifications due to Sexual and Gender-Based Violence or involvement with a Formal Complaint (e.g., assignment extensions, exam deferral, class scheduling, or withdrawal from a class) can request assistance from the Senior Officer (or designee) in student services with the help of a Trained Responder to Sexual Violence if preferred. All reasonable attempts will be made to provide accommodations.
- 7.1.3 University employees who feel the need for workplace modifications due to Sexual and Gender-Based Violence or involvement with a Formal Complaint can request assistance from the Senior Officer in Human Resources (or designee) with the help of a Trained Responder to Sexual Violence if preferred.

7.2 Interim Measures

- 7.2.1 The University may facilitate Interim Measures to support the complainant and/or Respondent during an investigation or a proceeding.
- 7.2.2 Without limiting the generality of section 7.2.1, the University may determine that there should be no contact between a Complainant and Respondent, and/or that the Respondent may be suspended from classes, the workplace or residence (as the case may be) pending the conclusion of an investigation.

8.0 REPORTING AND INVESTIGATIONS:

An additional document, titled Sexual and Gender-Based Violence Reporting Procedures, outlines the process of responding to Formal Complaints. You can view this document [here](#).

To report sexual harassment or incidences of Sexual and Gender-Based Violence where both the complainant and Respondent are employees of Burman University, please refer to the Burman University [Harassment Policy](#).

8.1 Formal Complaint Process

- 8.1.1 A Disclosure is not a Formal Complaint. It will not trigger an investigation unless the University becomes aware of a risk to other Members of the Burman Community or a Senior Officer or President of the University otherwise determines an investigation is warranted. In addition, if a person chooses to Disclose an incident of Sexual and Gender-Based Violence but does not want to report the incident through the criminal justice system or make a Formal Complaint under this policy, they remain entitled to access appropriate available personal supports and accommodations.
- 8.1.2 The Complainant determines what type of process they would want to pursue.
- 8.1.3 A Complainant who files a Formal Complaint can select the Alternative Resolution option to deal with an incident of Sexual and Gender-Based Violence. This process will not involve an investigation but provides a less stressful opportunity to resolve a complaint. If this option does not resolve the incident, the Complainant has the option of proceeding with a Formal Complaint process. Section 8.4 of this policy provides additional details about Alternative Resolution options.
- 8.1.4 The University recognizes its responsibility to respond to Formal Complaints in a fair, effective, and timely manner and encourages the immediate reporting of all incidents of Sexual and Gender-Based Violence.
- 8.1.5 Anyone who has witnessed or has been subject to Sexual and Gender-Based Violence may but is not required to file a Formal Complaint and/or criminal complaint.
- Criminal complaints can be made to the local police services. If an individual chooses this route, they can seek the support of the Senior Officer (or his/her designee) or the Sakala Success Centre designate to facilitate making a report to the police.
 - Non-criminal, campus Formal Complaints can be made to the applicable Senior Officer, pursuant to the procedures set out for this policy or other applicable University policies and procedures. The University will provide those who have experienced Sexual and Gender-Based Violence or those who wish to file a Formal Complaint with comprehensive information about reporting options.
- 8.1.6 Formal Complaints may be made anonymously, but the complainant should be aware that this may limit the ability of the University to respond.
- 8.1.7 See [Appendix V](#) for a Decision Tree outlining Disclosures and Complaints
- 8.1.8 See [Appendix VI](#) for information on what to expect when you file a Formal Complaint.
- 8.1.9 See [Appendix VII](#) for a list of the rights of a victim of a sexual assault.

8.2 Right to Forego or Withdraw a Formal Complaint and Limitations

- 8.2.1 A Complainant has the right to forego filing a Formal Complaint or to withdraw a Formal Complaint at any stage of the process; however, the University reserves the right to act or continue to act on a Formal Complaint in order to comply with its obligations under this policy and/or its legal obligations, to ensure fairness to other persons including the Respondent, and/or if the University believes that the safety of other Members of the Burman Community or the external community are at risk.
- 8.2.2 The University shall make reasonable efforts to minimize further distress to the complainant or others that have witnessed or been subject to Sexual and Gender-Based Violence when the need to involve law enforcement authorities arises.

8.3 Formal Complaint Review, Investigations and Outcomes

- 8.3.1 The University will handle Formal Complaints and investigations in a fair and unbiased manner with due process in accordance with this policy and its Procedures.
- 8.3.2 The University will ensure that a Trained Responder to Sexual Violence is available to support individuals who have made disclosures and/or a formal complaint. The individual may also bring a support person of their choosing.
- 8.3.3 The University reserves the right to determine whether it will investigate an allegation of Sexual and Gender-Based Violence whether or not law enforcement is involved and whether or not charges have been laid.
- 8.3.4 The University and investigators appointed to investigate Formal Complaints are authorized to collect and use personal information and any other information that is reasonably necessary to manage and investigate Formal Complaints.
- 8.3.5 Investigations will be completed as expediently as possible, with a goal that in most cases, the investigation will be completed within thirty (30) calendar days of the date the Formal Complaint was filed and, if applicable, a Response is received (whichever is later).
- 8.3.6 The standard of proof for the finding of a breach of this policy is on a balance of probabilities.
- 8.3.7 Any Member or non-member of the Burman Community who is found to have committed Sexual and Gender-Based Violence against another person will be held accountable and subject to sanctions and discipline as outlined within applicable University policy and laws.
- 8.3.8 Should the Respondent choose not to participate in the Formal Complaint investigation, the University reserves the right to take interim measures to ensure the safety of the Burman Community and, after completion of an investigation and a determination of the Formal Complaint, impose appropriate sanctions or discipline.

8.4 Alternative Resolution Options

8.4.1 At times, it may be possible to resolve an incident of Sexual and Gender-Based Violence without a formal investigation. This option can be discussed with the individual when they make a disclosure or file a complaint. Examples of options that could be considered in Alternative Resolution could include (but are not limited to):

- A private discussion with the alleged Respondent. The Respondent may choose to have a support person attend;
- Conversation with Respondent and Dean (or other identified University leader);
- Education related to Sexual and Gender-Based Violence and/or consent, i.e. First Responder Training
- Mediation
- Individual Counseling

8.4.2 If a resolution through an alternative outcome is not achieved, the Complainant has the option to continue with a Formal Complaint.

8.5 Appeal Process

8.5.1 Either a Claimant or a Respondent may appeal decisions made pursuant to investigations under this policy to the Discipline Appeal Committee, in accordance with other applicable University policies and procedures.

8.6 Multiple Proceedings

8.6.1 Where criminal and/or civil proceedings are commenced in respect of conduct that forms the basis of, or is related to the subject matter of, a Formal Complaint, the University will ordinarily conduct its own independent investigation into such Formal Complaint unless doing so will interfere with criminal proceedings, and will make its own findings in accordance with its policies and procedures. Where there is an ongoing criminal investigation into conduct that forms the basis of, or is related to the subject matter of, a Formal Complaint, the University will reasonably cooperate with the law enforcement authorities in conducting its investigations.

8.6.2 Notwithstanding, and in addition to section 8.5.1, the University retains the discretion to continue, suspend or terminate an investigation into a Formal Complaint where another proceeding concerning conduct that forms the basis of, or is related to the subject matter of, a Formal Complaint has been initiated.

8.7 Retaliation

8.7.1 It is contrary to this policy for anyone to Retaliate, or threaten to Retaliate against a person making a Disclosure, a Complainant or anyone else for i) making, intending to make or supporting a Disclosure or Formal Complaint in good faith in accordance with this policy or the Procedures; ii) pursuing rights or cooperating with

investigations under other University policies or laws in relation to incidents of Sexual and Gender-Based Violence.

- 8.7.2 Any Member of the Burman Community who undertakes, participates in or directs a Retaliation or who makes a complaint maliciously or in bad faith, may be subject to disciplinary action, up to and including termination of employment, expulsion or termination of contract.

9.0 CONFIDENTIALITY AND INFORMATION TRACKING

9.1 Confidentiality

Confidentiality is an important principle in creating an environment where Students affected by Sexual and Gender-Based Violence feel safe to disclose, make a Formal Complaint and seek available supports and accommodations. The privacy and confidentiality of all members of the Burman Community involved in any Disclosure or Formal Complaint will be protected to the extent possible, but cannot be maintained where disclosure is required to ensure the health and safety of Burman's Community Members.

- 9.1.1 All persons involved in a report and/or investigation of Sexual and Gender-Based Violence are expected to maintain confidentiality where appropriate. The University treats Formal Complaints as confidential, subject to the following:

- When an individual is judged to be at imminent risk of harming self and/or others;
- There are reasonable grounds to believe that Members of the Burman Community or wider community may be at risk of harm;
- Reporting is required by law (e.g. where a Disclosure or Report involves a minor);
- In order to promote fairness of process for all parties; and/or
- Reporting and/or conducting an investigation as required by law, by this policy, by the University's other policies, or by an external body with appropriate authority.

- 9.1.2 Confidentiality is subject to the provisions of applicable privacy legislation such as the *Personal Information Protection Act* (Alberta), other applicable legislation and law, and University policy.

- 9.1.3 Specific instances of limits of confidentiality are listed above; however, Students affected by Sexual and Gender-Based Violence should be aware that there are other instances where information may be shared among staff and faculty in the university in order to facilitate request for accommodations, support, and/or reports. In instances where confidentiality cannot be maintained, Students affected by Sexual and Gender-Based Violence will be notified as to who has been told and what information has been shared. All parties involved will be informed of possible limits of confidentiality when legally permissible.

- 9.1.4 Each member of Burman’s Community who is involved in receiving a Formal Complaint of Sexual and Gender-Based Violence must treat the matter as discreetly as possible and within the context of their role in the university. Beyond the circumstances referenced in this section (9.0) information about a Disclosure or Formal Complaint of Sexual and Gender-Based Violence will be shared only to the extent necessary to fulfill responsibilities set out in this policy and as may be required to provide a fair process during an investigation or adjudication of a Formal Complaint.
- 9.1.5 All information collected as a result of a Disclosure or Formal Complaint made under the policy will be managed in accordance with Personal Information Protection Act, as applicable.

9.2 Information Tracking and Retention of Records

- 9.2.1 The University will maintain information on the number of Complaints, the number and results of investigations and the corrective actions taken in response to recommendations arising out of investigations.
- 9.2.2 All records involving a Complainant and subsequent investigation of Formal Complaints, but not including records related to results of investigations or corrective actions taken, will be kept in a file separate from student academic records and/or employee personnel files, however, all such records may be used for purposes of future disciplinary processes.
- 9.2.3 Notwithstanding section 9.2.2, results of investigations and corrective actions taken may be included on a Respondents’ student academic records and/or in employee personnel files in accordance with the procedures.

10.0 OVERSIGHT & PROCEDURES

10.1 Trained Responders to Sexual Violence (TRSV)

- 10.1.1 The President of Burman University, in consultation with the Senior Officers in student development and human resources, will appoint and maintain a roster of Trained Responders to Sexual Violence who will be responsible for overseeing the implementation of this policy and its procedures.
- 10.1.2 The roster of Trained Responders to Sexual Violence will be maintained to provide support for individuals who report experiencing Sexual and Gender-Based Violence.
- 10.1.3 The roster of Trained Responders to Sexual Violence will include at least: one university counselor, Campus Safety and Transportation Manager, a campus Chaplin, one residence dean and one non-faculty staff member (in addition to the co-chairs). A similar number of male and female responders will be trained.

10.2 Procedures

- 10.2.1 When a Trained Responder to Sexual Violence (TRSV) receives a Disclosure of an incident of Sexual and Gender-Based Violence involving an individual and if personal information has been provided with the individual's consent, the TRSV will contact the individual to offer support and information.
- 10.2.2 The TRSV will offer information, supports and options tailored to the person's needs, wishes and circumstances.
- 10.2.3 The TRSV may make referrals to both on and off campus resources, discuss and facilitate appropriate accommodations and safety planning, and provide information about informal resolution options, and Reporting under this policy.
- 10.2.4 The TRSV can, on a confidential basis, consult with and seek the assistance of other internal personnel or resources to facilitate the safety, follow-up and support of those who have disclosed an incident of Sexual and Gender-Based Violence.
- 10.2.5 The TRSV may approve Procedures for carrying out this policy, which are secondary to and comply with this policy. Such Procedures shall be reviewed on an annual basis.

10.3 Investigative Team

Members of the internal investigative team are trained in investigations and in a specific interview technique that takes the impact of trauma (including Sexual and Gender-Based Violence) into account. All investigators have participated in the Forensic Experiential Trauma Interviewing (FETI) or a similar training. The Investigative Leads have additional training in conducting workplace investigations.

10.4 Policy Review & Implementation

- 10.4.1 This policy will be reviewed as needed.
- 10.4.2 The University will carry out all necessary actions in order to implement this policy across the University and among all of the groups of Members of the Burman Community.

Appendix I

Other Relevant Terms

Acquaintance Sexual assault: Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

Age of consent for sexual activity: The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve and 13 year-olds can consent to have sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than 5 years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

Burman University Property: means property owned, rented or otherwise used by the university or during university sponsored events.

Coercion: In the context of Sexual and Gender-Based Violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

Drug-facilitated sexual assault: The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

Individual with Lived Experience: means the person who discloses or reports having experienced Sexual and Gender-Based Violence. It is the determination of the person who reports having experienced Gender-Based Violence to determine how they wish to identify.

No-Contact Directive: means a requirement that a person have no direct or indirect contact, including but not limited to in-person, phone, text, email, social media, or through a 3rd party, with a specified individual, individuals or group as outlined in a written communication from the university.

Rape Culture: A culture in which sexual violence is treated as the norm and victims are blamed for their own assaults. It's not just about sexual violence but about the cultural norms and institutions that promote (even protect) the sexual violence. It allows for an environment where it teaches sexualized violence prevention as "don't get raped" instead of "don't rape".

Respondent: is the person alleged in a Formal Complaint to have violated this policy.

- “Student-Respondent” and “Respondent” refers to a Respondent(s) who is a Student(s) at Burman University, as described below under “Student”.

- “Employee-Respondent” means a Respondent who is a member of Burman University faculty or staff. Cases involving an Employee-Respondent(s) are to be dealt with in accordance with the process outlined in the Faculty/Staff Handbook.

Student: means any person who is registered in an academic program including a non-degree program, offered by Burman University, and includes anyone who was so registered when an incident of Sexual and Gender-Based Violence is alleged to have occurred. “Student” also means persons registered at Burman on a letter of permission and persons on exchange at Burman.

Student Group: means a group affiliated with the university (including any club or organization sanctioned by the university) and constituted to promote such things as social, vocational, academic, cultural, and/or political interests of Students within its membership.

Survivor/Victim: Some who have experienced Sexual and Gender-Based Violence may choose to identify as a survivor. Individuals might be more familiar with the term “victim”. The term survivor is used where relevant because some who have experienced sexual assault or other incidences of sexual and gender-based violence believe they have overcome the experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

Appendix II

Sexual and Gender-Based Violence Awareness, Education & Training

The Trained Responders to Sexual Violence will work with campus partners to develop and implement an annual education strategy to:

- promote a culture of consent;
- address issues of Sexual and Gender-Based Violence; and,
- facilitate access to support mechanisms for Students affected by Sexual and Gender-Based Violence.

For a list of Trained Responders to Sexual Violence, click [here](#).

The university will deliver appropriate information and education related to Sexual and Gender-Based Violence to the Burman Community, including Students in all years, with a focus on incoming Students during orientation week. The university will work with campus partners to provide ongoing awareness, education and training opportunities throughout the academic year.

Subject matter experts will collaborate to adapt existing content, and lead the development of new content and format design, in consultation with Students, to ensure information and educational material is tailored to the audience and context.

Specific attention will be given to issues of consent, healthy relationships, bystander intervention strategies, and policies and procedures for responding to Sexual and Gender-Based Violence. Awareness, education and training initiatives should take an intersectional approach to understanding Sexual and Gender-Based Violence.

The university will make training related to the policy and procedure available for staff, faculty, Students, and members of the governing board and senior administration.

Appendix III

A Definition of Consent to Sexual Activity

The Criminal Code of Canada, Section 273.1 provides a definition of consent for the purposes of the sexual assault offences and for greater certainty, sets out specific situations that do not constitute consent at law.

Subsection 273.1(1) defines consent as the voluntary agreement of the complainant to engage in the sexual activity in question. Conduct short of a voluntary agreement to engage in sexual activity does not constitute consent as a matter of law.

For greater certainty, subsection 273.1(2) sets out specific situations where there is no consent in law; no consent is obtained:

- where the agreement is expressed by the words or conduct of a person other than the complainant
- where the complainant is unconscious
- where the complainant is incapable of consenting to the activity for any other reason
- where the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority
- where the complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or
- where the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

<http://www.justice.gc.ca/eng/cj-jp/victims-victimes/def.html>

Appendix IV

Distinction between a Disclosure and a Formal Complaint

The decision to Disclose and the decision to make a Formal Complaint are separate from one another and are at the discretion of a Student affected by Sexual and Gender-Based Violence.

The university recognizes that Disclosures are often made in confidence and that the Student may have an expectation of confidentiality. The person to whom the Disclosure is made may consult with a Trained Responder to Sexual Violence (TRSV) for advice.

In addition to a TRSV, Campus Security (CS) staff are available on a 24/7 basis and can provide guidance and support to Students affected by Sexual and Gender-Based Violence. Campus Security must advise a TRSV of all alleged incidents of Sexual and Gender-Based Violence against Students of which it becomes aware.

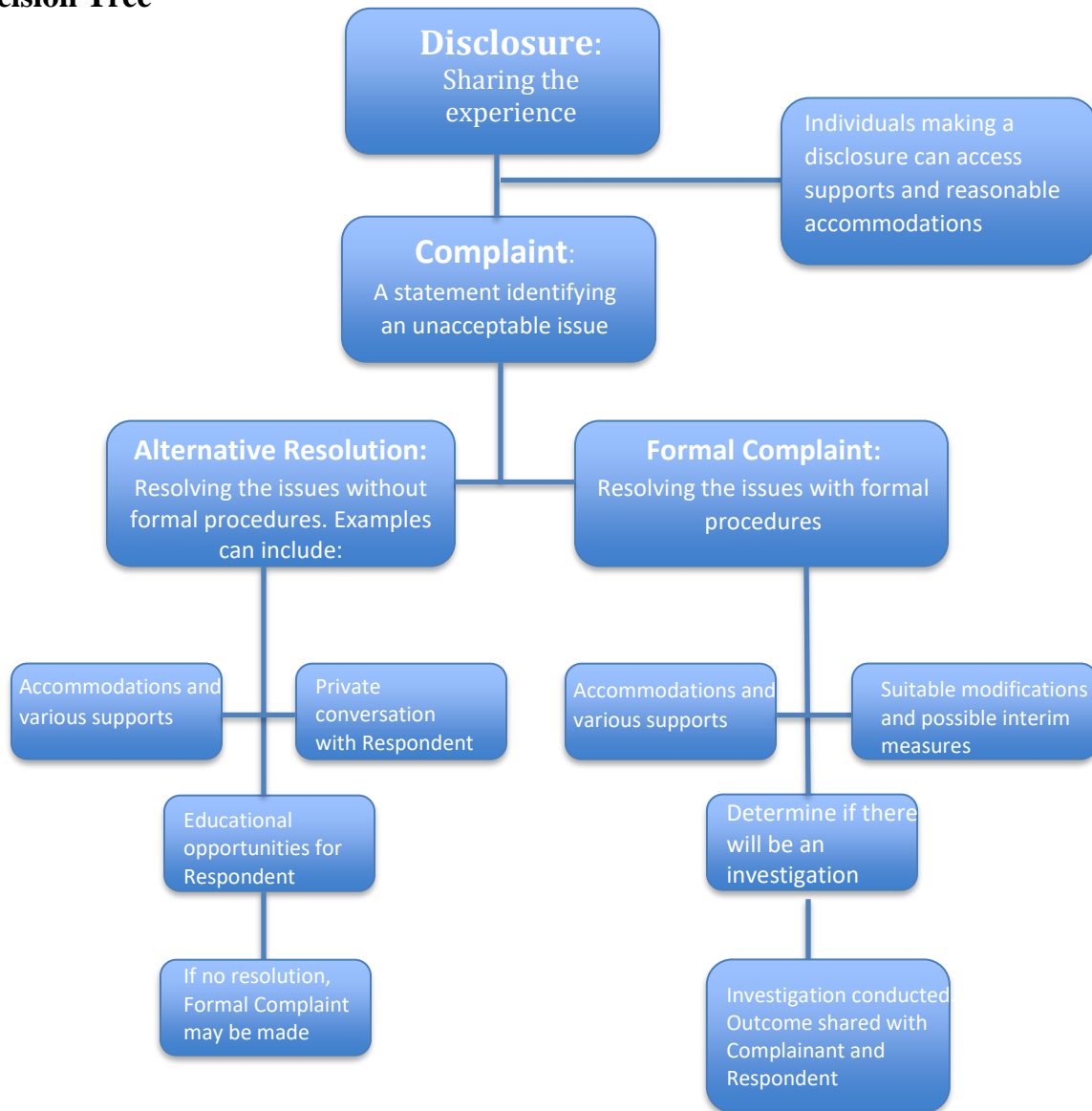
If an incident of Sexual and Gender-Based Violence is Disclosed to a member of the Burman Community, the person to whom the Disclosure is made should refer the person Disclosing to this policy and should inform the person that a TRSV can provide detailed information about the availability of supports and services, as well as information about filing a Formal Complaint.

Members of the Burman Community who receive a Disclosure of an incident of Sexual and Gender-Based Violence can, with the permission of the Student impacted, provide a TRSV with the Student's name and contact information for the purpose of outreach.

A Disclosure is not the same as a Formal Complaint and does not initiate an investigation or adjudication process. A Student affected by Sexual and Gender-Based Violence can make a Disclosure and choose to make a Formal Complaint at a later date.

Appendix V

Decision Tree



Appendix VI

What to expect when you Disclose or make a Formal Complaint

If you contact a Trained Responder to Sexual Violence, member of the Student Services team, Campus Security, or faculty:

- The individual who received the disclosure will notify a Senior Officer of the incident. The individual who is making the disclosure can decide whether or not they want their personal information shared.
- If you choose to share your personal information, you may be contacted by the Senior Officer regarding the incident.
- An investigation may begin if the individual so chooses or if the incident suggests there is an ongoing threat to the campus community. An investigation does not mean that your personal identity will be revealed to the campus community, nor does it mean that you would ever have to confront the accused.
- If you choose to report the incident to the local police you can opt to have a support person assist you. In addition, will be provided with and/or connect to local mental and physical care providers if you so desire.
- If the responding party is a member of the Burman community, the University can order the responding party to cease and desist from any intentional contact, direct or indirect, with you in appropriate circumstances. The University may also be able to provide reasonable housing and/or classroom accommodation so that the individual with the lived experience need not face the Respondent.
- You will also be given the opportunity to contact the Burman University Counseling center or another agency in the community.
- The nature of your report may be included in the University's crime statistic log. The crime log does not include personally identifiable information, just a report of an issue such as sexual assault was taken. Likewise, should the nature of your report pose a threat to the campus community, general information may need to be shared.

If you contact the counseling center:

- A counselor will meet with you on campus and provide support.
- The counselor will not share any information of the incident with law enforcement or a member of the Burman community without your consent unless there is a clear threat to others or you make a statement(s) of a suicidal/homicidal nature or is otherwise required by law.
- The counselor will explain reporting options and support you in whatever decision you make regarding whether or not to report.
- If you choose to file a Formal Complaint with the University or the RCMP, a counselor may accompany you and support you through the process if you so desire.

If you contact the local police:

- The police will meet with you to discuss the incident and create a report.
- The police will ask you for details of the incident and explain your legal rights.
- They may contact a victim advocacy service or the alleged perpetrator. Their actions will depend on what you report and how you want to proceed.
- The police may contact Campus Security to let them know that they are on campus.

If you go to the hospital for an exam:

- You may request that a sexual assault exam be completed. You may request this even if you are unsure about making a formal complaint to the police. The results of the exam can be stored for up to one year.
- A police officer may be contacted and you may be asked to make a report. The officer is there to collect any evidence obtained during the exam.
- If you are 18 or older, your parents will not be notified by the hospital without your consent.
- Making a report and completing an exam preserves the option to prosecute, but does NOT commit an individual to pressing charges.
- You may request a Trained Responder to Sexual Violence, a member of the Burman community, or a support person of your choice to accompany you to the exam.

Appendix VII

Rights of Those who have Experienced Sexual and Gender-Based Violence

People who disclose or report an experience of Sexual and Gender-Based Violence have the following rights:

- To have confidentiality protected;
- To be treated with dignity and respect;
- To be informed about on- and off-campus services and resources;
- To be informed about the procedures in place to address Sexual and Gender-Based Violence and reporting options;
- To decide whether or not to access available services and to choose those services they believe will be most beneficial;
- To make an informed decision regarding whether to report the incident to campus authorities and/or local police;
- To have an on-campus investigation with the University's full cooperation;
- To have a plan to protect their safety; and
- To have reasonable and necessary actions taken to prevent further unwanted contact with the accused.

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