

# MACMILLIAN INSTITUTE OF APPLIED HEALTH SCIENCES

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## **COLLEGE PROCEDURE**

**PROCEDURE TYPE:** ACADEMIC

**PROCEDURE TITLE:** SEXUAL HARASSMENT POLICY

**POLICY #:** ACAD-101.19

**RESPONSIBILITY:** HEAD OF ACADEMIC

**APPROVED BY:** MacMILLIAN INSTITUTE OF APPLIED HEALTH SCIENCES COLLEGE

**EFFECTIVE DATE:** DECEMBER 2014

**REVISED:** DECEMBER 2021

**REVIEW DATE:** DECEMBER 2027

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## **POLICY STATEMENT:**

The purpose of this policy is to:

- Prohibit all forms of sexual violence at MacMillian Institute of Applied Health Sciences
- Affirm and maintain a climate and culture at MacMillian Institute of Applied Health Sciences in which all members of the MacMillian Institute of Applied Health Sciences community experience a safe and respectful learning, living and working environment.
- Affirm and enforce an affirmative standard of consent.
- Establish procedures to respond promptly to disclosures and reports of sexual violence in a manner that is trauma-informed, procedurally fair to Survivors and Respondents, and protects the safety and respects the choices of Survivors.
- Identify the role of the Sexual and Gender-Based Violence Office (SGBVO) as a student support department with the purpose to develop training, education, awareness, and prevention initiatives at MacMillian Institute of Applied Health Sciences, receive disclosures and reports of sexual violence, and support survivors.

## **POLICY ELABORATION:**

- MacMillian Institute of Applied Health Sciences does not tolerate any form of sexual violence.
- MacMillian Institute of Applied Health Sciences does not tolerate any form of retaliation by Respondents or others directed at persons who have made a Disclosure or Formal Report of sexual violence, nor at persons who have been named as Respondents in such Reports.

- MacMillian Institute of Applied Health Sciences recognizes the diversity of the MacMillian Institute of Applied Health Sciences Community and understands that each person will be affected differently by Sexual Violence, based on the intersection of multiple identities, such as: sex, sexual orientation; gender identity and expression, Indigenous, racial or ethnic background; migration status; language; ability; faith; age; socio-economic status and previous experiences of trauma, including but not limited to generational and historical trauma.

- MacMillian Institute of Applied Health Sciences is committed to providing supports to Survivors based on their personal experiences, whether or not the Survivor chooses to make a Formal Report through the MacMillian Institute of Applied Health Sciences internal reporting process or any external reporting process (such as reporting to police).

- MacMillian Institute of Applied Health Sciences recognizes that sexual violence is under-reported for a variety of reasons, including shame, stigmatization, self-blame, fear of reprisals, isolation, ostracism or of being dismissed or disbelieved. MacMillian Institute of Applied Health Sciences is committed to reducing the barriers to

#### **Disclosure and Reporting of sexual violence.**

- MacMillian Institute of Applied Health Sciences recognizes that specialized knowledge and training are 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 occurred.

- MacMillian Institute of Applied Health Sciences acknowledges its obligation to maintain a non-discriminatory learning environment under the Ontario Human Rights Code and an obligation to establish a procedurally fair and non-discriminatory process for responding to Reports of sexual violence.

- MacMillian Institute of Applied Health Sciences community members who disclose their experience of sexual violence

through reporting an incident or accessing supports and services for sexual violence, will not be judged or blamed for experiencing sexual violence or asked irrelevant questions during the investigation process by MacMillian Institute of Applied Health Sciences employees or investigators, including irrelevant questions relating to their sexual expression or past sexual history.

- A person who has experienced sexual violence can access other legal processes at any time including criminal, civil, professional regulatory or human rights processes. The procedures set out under this policy may be suspended when there are other proceedings relating to the same incidents; however, MacMillian Institute of Applied Health Sciences may continue to provide academic adjustments and accommodations and support to those affected by sexual violence.

- MacMillian Institute of Applied Health Sciences recognizes the importance of sexual violence prevention and education as well as ongoing training on this policy at, MacMillian Institute of Applied Health Sciences to achieve the purposes and goals.

of this policy. Those with specific responsibilities within this policy will complete.

additional training to align their work with these principles.

- Additional expectations of MacMillian Institute of Applied Health Sciences employees as related to sexual violence, personal relationships and conflicts of interest are detailed in the Employee Code of Conduct.

- Where there is any conflict between this policy and the terms of a collective agreement, the collective agreement governs

### **SUPPORTS FOR SURVIVORS AND RESPONDENTS**

- The College is committed to responding to all disclosures/reports of sexualized violence in a consistent, respectful and supportive manner. A full list of support services is provided in the Resources Appendix of this policy. Students are not required to report an incident or make a complaint about sexual violence in order to access support services.

- The SGBVO (Sexual and Gender-Based Violence Office is intended to be a single point of contact, support, and liaison for student members of the MacMillian Institute of Applied Health Sciences community who have experienced sexual violence. The SGBVO will provide individualized information, advice and assistance. The SGBVO will be staffed by professionals who will have training and/or experience in trauma-informed 4 practice, gender-based violence, sexual assault law, and sexual violence investigations and procedures.

The support services offered to Survivors by the SGBVO include:

- Receiving confidential disclosures,
- Assisting with safety planning (current and ongoing),
- Providing crisis support, coping and harm reduction strategies
- Identifying and co-ordinating appropriate academic adjustments/supportive measures,
- Providing information about MacMillian Institute of Applied Health Sciences and community supports,
- Explaining the Sexual violence policies and procedures, the steps and decision making involved, including requests for review and appeals,
- Acting as a support person and liaison for the student, including during an investigations, reviews and/or appeal.

- Students who have been affected by Sexual violence should contact the SGBVO, who will respond within 1 business day. Contact information is provided in the Resources. Appendix of this policy.

- The SGBVO is responsible for developing and implementing awareness, education, prevention and training programs for employees and students of MacMillian Institute of Applied Health Sciences. In doing this work, the SGBVO may, as appropriate, collaborate with Campus Security, Student Engagement, and the SRRO, among others.
- Support services for Respondent Students are offered through the Student Rights and Responsibilities Office (SRRO).

These supports include:

- Assisting with general safety planning,
- Providing information about MacMillian Institute of Applied Health Sciences and community supports, identifying and co-ordinating appropriate academic or residence accommodations, including arising from any Immediate Measures, Explaining the Sexual violence policies and procedures, the steps and decision making involved, including requests for review and appeals,
- Acting as a support person and liaison for the student, including during an investigation, review and appeal.
- There are a wide variety of additional supports available via MacMillian Institute of Applied Health Sciences and in the community, including counselling, medical and crisis support services. A detailed list of these services are provided in the Resources Appendix section of this policy.

## **SUPPORTS FOR EMPLOYEES**

- An employee who has experienced sexual violence may contact Human Resources for support, information and community referrals. The SGBVO may also be a resource for information and community referrals.
- An employee who is alleged to have committed an act of sexual violence may obtain information about the process and their rights from the Human Resources office, Referrals to community supports will also be provided to employees whether they are survivors or respondents.

## **SCOPE:**

- ◆ This policy applies to all members of the MacMillian Institute of Applied Health Sciences.
- ◆ This Policy applies to Disclosures and Formal Reports of sexual violence whether the incident(s) occurred at college owned or operated facilities or at a college sponsored or affiliated activity and when the conduct have a substantial link to the College, implications for students or employees or the educational mission of the College and is within the College's scope of responsibility. This includes incident(s) that occur on or off. Campus and

behaviour observed or carried out through an electronic, online or social. Media platform, or by using text, audio, video or images. Any Member of the MacMillian Institute of Applied Health Sciences 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.

◆ A Formal Report of sexual violence may be investigated in circumstances where the respondent is a current Member of the MacMillian Institute of Applied Health Sciences Community. A “current” Member of the MacMillian Institute of Applied Health Sciences Community for the purposes of a formal investigation includes. Respondents who may not presently be at MacMillian Institute of Applied Health Sciences but have an ongoing relationship. with the College. Where a Formal Report is made against a person who is not currently a Member of the MacMillian Institute of Applied Health Sciences Community, MacMillian Institute of Applied Health Sciences may suspend the investigation. Where a Formal Report is made against a person who, for example, is a visitor, volunteer or contractor, MacMillian Institute of Applied Health Sciences may take steps other than a formal investigation in response to Disclosure or Report, for example by prohibiting guests or contractors or others from entering on MacMillian Institute of Applied Health Sciences property.

- This policy governs, and the Student Rights and Responsibilities Policy and Procedure is superseded in cases involving sexual violence where the respondent is a student. Where any other intersecting policy, such as relating to harassment and discrimination, is engaged in a Report of sexual violence, 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.
- The procedures in this policy for imposing Immediate Measures on Respondents and for investigating Formal Reports of sexual violence, including imposing sanctions or remedial measures on Respondents, applies to Student Respondents.
- Where the respondent is a student who is also an employee of the College, the student will also be subject to the provisions of this Policy and any applicable terms of their applicable collective agreement or employment agreement.
- Where the Respondent to a Report of sexual violence is an employee of MacMillian Institute of Applied Health Sciences, the procedures for investigating the Report are the Sexual Violence Procedure for employees. and any applicable collective agreement provisions.

## **DEFINITIONS:**

### **Academic Adjustments and Accommodations**

For the purpose of this policy, Academic Adjustments and Accommodations are a means of preventing and removing barriers that impede full participation and access to education and work among survivors. The arrangement of reasonable accommodations recognizes the experience of survivors and how that may affect participation in academics or workplace duties. A Formal Report is not required for a Survivor to obtain academic adjustments and accommodations.

### **Assessment Committee**

A committee that may be used to support and assist any decision-making under this policy. It exists due to the complex and sensitive nature of Sexual and Gender-Based Violence cases and is intended to be small and made up of only those individuals/roles with relevant information.

or expertise. The membership includes the Dean of Students (or designate), the Director of Safety & Security (or designate), a designate of the SGBVO, and any other person the Dean of Students chooses.

### **Confidentiality**

The term used in this policy to refer to the MacMillian Institute of Applied Health Sciences's responsibility and obligation to ensure that any private and personal information provided in a disclosure, report and/or investigation of sexualized violence is collected, used, maintained and secured appropriately. Circumstances in which limits to confidentiality apply are outlined in Section 10 of this policy. will make every effort to maintain confidentiality of all persons involved in a disclosure or report of sexualized violence including the survivor, respondent and witnesses. All persons participating in the process are required to maintain confidentiality with respect to information provided in the course of the disclosure, reporting, assessment and/or investigation of an incident of sexualized violence.

### **Consent to Sexual Activity**

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.

- Consent must be obtained at the outset and at all stages of sexual activity on an ongoing basis
- Consent can be withdrawn at any time
- Silence or the absence of "no" is not consent
- Consent cannot be assumed from passivity, immobility or an absence of resistance or perceived resistance
- Someone who is Incapacitated cannot consent
- Past consent earlier on the day or night in question or on previous occasions does not imply contemporary, ongoing or future consent.
- There is no consent where one person abuses a position of trust, power or authority over another person. There is no consent where 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.
- 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.

- An individual's state of intoxication is not a defence to sexual contact without consent

## **Disclosure**

Refers to a Survivor or a witness sharing information about an incident of sexual violence. Survivors and others are encouraged to disclose to the SGBVO, which provides information on options following a Disclosure, and co-ordinates academic adjustments accommodations and supports. A Disclosure does not automatically initiate a formal investigation by MacMillian Institute of Applied Health Sciences. A Survivor may choose to make a Formal Report at a later time to initiate a formal investigation. by the College.

## **Formal Report**

When an individual shares their experience for the purpose of initiating a formal investigation.

## **Gender-Based Violence**

Violence against someone because of their gender, gender expression, gender identity or perceived gender. It is considered sexual violence under this policy.

## **Immediate Measures**

Temporary measures designed to protect the safety of the Reporter and/or other individuals that are instituted at any point following a disclosure or report of an incident of Sexual violence and prior to a determination on discipline or remedy or a review being made under this policy. Immediate measures are not punishment and do not represent a finding of misconduct. Incapacitated

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. A person does not have the capacity to give consent when they cannot appreciate the who, what, when, where, why, or how of the sexual activity. 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.

## **Intimate Partner Violence (IPV)**

Behaviour by an intimate partner or former intimate partner that causes physical, sexual or psychological harm, including physical aggression, sexual coercion, psychological abuse and controlling behaviours. IPV is inclusive of all forms of relationships, e.g. hetero/same sex, married/common law/dating. IPV is covered under this policy whether Sexual Violence has occurred or not. Members of the MacMillian Institute of Applied Health Sciences Community Includes students, clients, employees, members of the

Board, visitors and contractors, and cooperative education employers and placement sites. A current Member of the MacMillian Institute of Applied Health Sciences community for the purposes of a formal investigation includes Respondents who presently may not be enrolled at MacMillian Institute of Applied Health Sciences but have an ongoing relationship with. MacMillian Institute of Applied Health Sciences

## **Procedural Fairness**

### **A process:**

- based on impartiality, absence of bias and structural independence
- where the respondent is informed of the allegations
- where the reporter is informed of the respondent's response
- which includes a meaningful opportunity for each party to know the case against them and an adequate opportunity to respond.
- in which both parties are given sufficient notice of interviews or meetings where they are expected to present or respond to evidence gathered as part of the process.
- leading 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.

### **Reporter**

An individual who has initiated a Formal Report under this policy alleging that a member of the MacMillian Institute of Applied Health Sciences community has committed sexual violence in breach of this policy or where the individual requests that Immediate Measures be imposed on a Respondent. The term "Survivor" is used when a person discloses that they have experienced sexual violence.

### **Respondent**

A person who is alleged to have engaged in activities that violate this policy. Sanction. A penalty for breaching this policy, communicated in writing by the Dean of Students (or designate). Sexual and Gender-Based Violence Prevention and Support Office (SGBVO) The office provides support to the Survivor/Reporter.

**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 or resistance (the removal of a condom, or the refusal to wear a condom, without the express consent of the sexual partner) is a form of non-consensual sexual contact and is sexual assault.

### **Sexual Harassment**

Any unwelcome or unwanted sexual conduct or comment(s) directed at an individual when that person reasonably 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 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 which are not of a sexual nature, but which are demeaning, such as derogatory gender-based jokes or comments.

### **Sexual violence**

A broad term that describes any sexual act or 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.

Sexual violence can

occur between two people involved in an intimate relationship, including hetero/same sex, married/common law/dating. Sexual violence can take place through any form or means of communication (including online, social media, verbal, written, visual, "hazing", or through a third party). Sexual violence includes:

- sexual assault, indecent exposure, voyeurism and non-consensual distribution of intimate images, sexual exploitation, gender-based violence, and intimate partner violence
- sexual harassment and stalking, cyber harassment, and cyber stalking of a sexual nature

### **Stalking**

A pattern of repeated and unwanted attention, harassment, contact, or any other course of behaviour(s) directed at a specific person that could cause fear. This may include repeated, unwanted, intrusive, and frightening communications, following or waiting for the other person at one or various places, damaging or threatening to damage property. Students Rights and Responsibilities Office (SRRO)

Administers the Student Rights and Responsibilities Policy and Procedure and a variety of related services for students. Under this SGBV policy, a member of the SRRO provides support to student Respondents.

### **Survivor**

An individual who has experienced sexual violence, has Disclosed an experience of sexual violence, or identifies as a Survivor. The term "Reporter" 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**.

### **Third Party and Anonymous Reports**

A third party who has information about an incident of sexual violence against another person, may submit that information, either verbally or in writing, to the SGBVO. Were the information relating to an identifiable or identified Survivor, the consent of that Survivor should be sought before the information is provided to MacMillian Institute of Applied Health Sciences. An Anonymous Report may be made by a Survivor or a Third Party. Includes all employees of MacMillian Institute of Applied Health Sciences who are subject to including faculty and support staff.

## **PROCEDURES:**

### **1. RECEIVING DISCLOSURES OF SEXUAL VIOLENCE**

1.1. MacMillian Institute of Applied Health Sciences recognizes that a person who has been affected by sexual violence may choose to confide in someone such as a peer, employee, advisor, supervisor, or employee from residence, medical care, or counselling. A supportive response involves: 1.1.1. Listening without judgement and accepting the disclosure as true. 1.1.2. Not asking unnecessary questions about the incident and not taking any investigative or fact-finding steps. 1.1.3. Communicating that sexual violence is never the responsibility of the survivor. 1.1.4. Referring the individual to the SGBVO. 1.1.5. Helping the individual identify and/or access available on- or off-campus services, including emergency medical care and counselling. 1.1.6. Respecting the individual's right to choose the services they feel are most appropriate; 1.1.7. Recognizing that disclosing can be traumatic. 1.1.8. Respecting the individual's choices as to what and how much they disclose about their experience. 1.1.9. Making every effort to respect confidentiality and anonymity; and 1.1.10. Advising the survivor that the SGBVO (for students) and HR (for employees) must be informed of the incident if the survivor wants there to be any record that the disclosure was made and/or the survivor wants the College to take steps, such as immediate measures or an investigation. 1.2. If a disclosure is made by a student, the Receiver must provide the student with the option to be referred to the SGBVO. When recommending the referral, the student should be informed by Receiver of the following: 1.2.1. Disclosing an experience does not mean that action(s) will be taken. The SGBVO maintains student confidentiality (exceptions noted under "Confidentiality"). 1.2.2. If alcohol or drug use was involved during the incident(s), a student who has disclosed in good faith will not be disciplined under the Student Rights and Responsibilities Policy for misconduct related to their alcohol or drug use at the time the sexual violence took place. 1.2.3. It is not uncommon for international students to worry about how seeking support will impact their studies, including their visa status. The SGVBO will ensure that

students are aware that seeking support will not have a negative impact on their education.

1.2.4. Support will be provided and an appropriate accommodation plan developed.

## **2. WITNESSING SEXUAL VIOLENCE**

2.1. Anyone who witnesses any type of sexual violence, should contact s Security. For immediate assistance.

2.2. All members of the MacMillian Institute of Applied Health Sciences community who have relevant information about a report of sexual violence has a duty to cooperate in an investigation unless they received that information in a confidential or privileged relationship, such as those employees who are governed by a regulatory body (e.g., social workers, counsellors, nurses, etc.). A Survivor may choose not to request an investigation and has the right not to participate in any investigation that may occur.

2.3. MacMillian Institute of Applied Health Sciences will offer annual training on this policy, the SGBVO, and best practices for Members of the MacMillian Institute of Applied Health Sciences community in responding to disclosures of sexual violence. Such training shall be mandatory orientation training for all new employees. Each department and faculty of MacMillian Institute of Applied Health Sciences is encouraged to develop training appropriate to their role within MacMillian Institute of Applied Health Sciences.

2.4. Members of the MacMillian Institute of Applied Health Sciences community, including students, employees, governors and contractors should immediately report all incidents and suspected incidents of Sexual Violence. to Safety and Security Services.

2.5. All employees and contractors have a duty to report all incidents and suspects. incidents of sexual violence (except for those who came upon this information within a confidential or privileged relationship, such as counsellors, nurses and regulated health professionals).

2.6. Students are strongly encouraged to report incidents of sexual violence, but do not. need to report incidents of sexual violence to obtain supports, services, or accommodation from the College.

2.7. Persons in a position of authority, including persons having responsible charge over the activities of others, shall take immediate action to respond to or to prevent sexual. violence from occurring.

2.8. If an individual or department at MacMillian Institute of Applied Health Sciences other than SGBVO (e.g., Safety & Security, Student Residences, or Human Resources), receive a Disclosure or Report of sexual violence, a copy of the report or information on the incident and the persons involved, shall be provided to the SGBVO (except to the extent this is inconsistent with the terms of a collective agreement or received within a confidential or privileged relationship).

## **3. CONFIDENTIALITY**

3.1. Ensuring confidentiality is a key principle in creating an environment and culture in which Survivors feel safe to disclose and seek support and accommodation. MacMillian Institute of Applied Health Sciences

is committed to ensuring that such an environment and culture exists at MacMillian Institute of Applied Health Sciences

3.2. To access various employment, residence or academic accommodations, it may be necessary for the Survivor to provide consent to share some information with persons responsible for those accommodations. For example, to ensure no contact with the Respondent.

3.2.1. Residence accommodations will be discussed with the Residence General Manager (or delegate).

3.2.2. Academic adjustments and accommodations will be discussed with the appropriate administrators and faculty as necessary.

3.2.3. Employment accommodations will be discussed with the Human Resources Director

3.3. MacMillian Institute of Applied Health Sciences cannot guarantee absolute confidentiality in all cases of a disclosure. MacMillian Institute of Applied Health Sciences may be required to disclose information and/or undertake its own investigation where:

3.3.1. There is a serious risk of harm to self or others.

3.3.2. There is suspected abuse of someone under the age of 16.

3.3.3. 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 MacMillian Institute of Applied Health Sciences

3.3.4. There are multiple Reporters or Respondents

3.3.5. There are multiple disclosures against the same person.

3.3.6. There is a risk to the safety of the College and/or broader community.

3.3.7. Reporting or other action is required or authorized by law (e.g., subpoenaed by the Crown or a regulatory body).

In such cases, MacMillian Institute of Applied Health Sciences will provide notice and support to the Survivor where the Survivor is known, and the Survivor has the right to decide whether to participate in any investigation.

3.4. Maintaining confidentiality during an investigation is essential to maintaining the integrity of the investigation, including minimizing the possibility that parties or witnesses will engage in intentional or unintentional collusion (by discussing the facts of the investigation). Confidentiality during an investigation also helps to prevent conditions that foster retaliation, ostracism or polarization, aimed at undermining either the reporter or the respondent.

3.5. MacMillian Institute of Applied Health Sciences recognizes, however, that a Respondent may need to share some information to facilitate their response; a Reporter may need to share some information to identify witnesses and assist the investigation; and both parties may. Need to rely on their respective circles of support, such as close friends, family, therapists or legal counsel.

3.6. MacMillian Institute of Applied Health Sciences further recognizes that silencing persons who have disclosed or reported sexual violence, by telling them that they cannot talk about the experience because of an ongoing reporting process, is a barrier both to reporting and to healing. 3.7. Having regard to the above, MacMillian Institute of Applied Health Sciences encourages Reporters 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. 3.8. MacMillian Institute of Applied Health Sciences must comply with the requirements of Ontario legislation, including but not limited to the Freedom of Information and Protection of Privacy Act, the Personal Health Information Protection Act, the Ontario Human Rights Act, the Ministry of Training, Colleges and Universities Act, O. Reg. 131/16: Sexual Violence at Colleges and Universities, and the MacMillian Institute of Applied Health Sciences privacy and records management policies.

#### **4. IMMEDIATE MEASURES**

4.1. Immediate Measures may be imposed by the Director of Safety & Security (or Designate) or the Dean of Students (or designate) on a student Respondent at any time. Following a Disclosure or Formal Report of Sexual violence. The Assessment Committee may also be convened to support any decision related to Immediate Measures.

4.2. Immediate Measures may be initiated at the request of the Reporter or on MacMillian Institute of Applied Health Sciences' own initiative.

4.3. Where a Reporter requests Immediate Measures following a Disclosure, the Reporter must consent to the release of their name and the general nature of the allegations to the Respondent. The release of the name and some information about the allegations is necessary for the process to be procedurally fair.

4.4. Immediate Measures include, but are not limited to:

4.4.1. No contact/communication orders

4.4.2. Arrangements to minimize encounters in learning, living or working environments such as changes in class schedules or sections, residence location, work schedules or assignments.

4.4.3. Suspension of ability to participate in team practices or games.

4.4.4. Restricting campus privileges of the Respondent

4.4.5. Restricting access to part or all of the MacMillian Institute of Applied Health Sciences campus on the part of the

Respondent, up to and including a campus ban/no trespass order.

4.4.6. Administrative suspension of the Respondent.

4.5. Immediate Measures may be imposed on a student Respondent by the Director of Safety & Security (or designate) or the Dean of Students (or designate) where there is

reasonable cause to believe that Immediate Measures are required to achieve any of the following:

- 4.5.1. To protect the safety, security or academic, residence, or employment well-being of the Reporter or any other Member of the MacMillian Institute of Applied Health Sciences community
- 4.5.2. To address any risk posed by the Respondent to the safety and well-being of the Reporter and/or to the MacMillian Institute of Applied Health Sciences community
- 4.5.3. To maintain confidentiality and/or the integrity of a MacMillian Institute of Applied Health Sciences investigation or anticipated investigation
- 4.5.4. To discourage or prevent retaliation.
- 4.5.5. To minimize disruption to the learning, residence or working environment at MacMillian Institute of Applied Health Sciences
- 4.5.6. To maintain and build community trust and confidence in MacMillian Institute of Applied Health Sciences
- 4.5.7. To maintain and promote a campus environment in which sexual violence is not tolerated.

4.6. In addition to the above factors, the following factors will also be considered:

- 4.6.1. The wishes and expressed needs of the Reporter.
- 4.6.2. The views of the Respondent, if available
- 4.6.3. The nature and seriousness of the alleged conduct
- 4.6.4. The impact of the conduct on the Reporter and/or on the MacMillian Institute of Applied Health Sciences community
- 4.6.5. The impact of the proposed measures on the Respondent, and
- 4.6.6. Whether the Respondent is in a position of trust or authority

4.7. Any Immediate Measures imposed shall be reasonable and justified in the circumstances to meet the above goals.

4.8. The Respondent shall receive notice in writing from the Administrator of Students that the Administrator, either intends to impose Immediate Measures, or in cases under para. 10.17 and 10.18, that the Director of Safety & Security or the administrator of Students has already imposed Immediate Measures.

4.9. The Respondent may provide a response to the Dean of Students within 3 days following receipt of the notice.

4.10. The Respondent's response may include consent to the Immediate Measure on an interim basis, with a request that it be reconsidered or reviewed based on additional information, within a specified period of time.

4.11. The Reporter will be provided a copy or summary of the Respondent's response to the imposition of Immediate Measures, and 3 days to respond. The timeline for the Reporter's response may be extended in extenuating circumstances.

4.12. The Administrator of Students shall consider the information provided by the parties in making the decision on Immediate Measures.

4.13. Within 3 days of the imposition of Immediate Measures on a Respondent, the Administrator will provide a written letter to the Respondent's MacMillian Institute of Applied Health Sciences -issued email. Address or to the Respondent through the

SRRO, setting out the decision made, the information relied on in making that decision, and the reasons for the decision. 4.14. At any time either the Respondent or the Reporter may request that the Administrator of modify or remove the Immediate Measures. Such request should be made. Through the SGBVO (for the Reporter) or the SRRO (for the Respondent). 4.15.A request for reconsideration of the Immediate Measures is appropriate in cases. where there has been a change of circumstances. Where a request to reconsider the Immediate Measures is made, the other party will be advised of the request and provided an opportunity to respond. 4.16. If Immediate Measures are amended or modified by the Dean of Students, a decision. letter confirming any changes, the measures remaining in place, and the reasons for the amendments, shall be provided to both the Respondent and the Reporter. 4.17. In urgent circumstances, such as where delay may cause harm to the Reporter and/or to the MacMillian Institute of Applied Health Sciences community or any Member of the MacMillian Institute of Applied Health Sciences community, Director of Safety & Security (or designate) or the Administrator (or designate) may impose Immediate Measures immediately and prior to hearing from the Respondent. 4.18. In such cases, notice in writing of the Immediate Measures shall be provided to the Respondent through the SRRO within 1 day of the decision being made. The Respondent shall have an opportunity to respond within 7 days. The Administrator of Students shall consider any submissions or new information provided by the Respondent and may modify or reconfirm the Immediate Measures. 4.19. Student Respondents may be entitled to accommodations arising from Immediate. Measures (such as in the case of a campus ban) which may be requested through the SRRO. 4.20. Immediate Measures imposed on a student Respondent may remain in place. indefinitely where: 4.20.1.A Disclosure but no Formal Report has been made and no investigation initiated. 4.20.2. The Immediate Measures meet the needs of the Reporter and the Reporter and Respondent consent 4.20.3. The Immediate Measures address the safety, remedial, and campus culture. responsibilities of MacMillian Institute of Applied Health Sciences. 4.21. Despite any agreement by the parties to continue the Immediate Measures indefinitely, any party may subsequently request a reconsideration of the Immediate Measures, or the Reporter may elect to initiate a Formal Report.

## **5. FORMAL REPORTS AND INVESTIGATION**

5.1. A Formal Report is the sharing of information by the person who is reporting sexual violence (the Reporter) for the purpose of initiating an investigation that could result in disciplinary action, or remedial measures being imposed on the Respondent. A Formal Report is not required to obtain supports, services, or academic adjustments/ accommodation(s) from MacMillian Institute of Applied Health Sciences College.

5.2. Every decision maker involved in making a decision after a Formal Report has been. Made by a Reporter shall be guided by the following:

5.2.1. Trauma-informed practice

5.2.2. Avoidance of discriminatory assumptions and stereotypes about persons who experience and/or report sexual violence.

5.2.3. Non-adversarial approaches to permitting the parties to ask questions and test the evidence

5.2.4. Supports for the Reporter and the Respondent

5.2.5. The rights of both the Reporter and Respondent as parties to the process

5.2.6. Procedural Fairness

5.2.7. Timeliness, and

5.2.8. Maintaining confidentiality to the extent possible.

5.3. There is no deadline for making a Formal Report under this policy. MacMillian Institute of Applied Health Sciences recognizes that Survivors may require time to disclose and make a report. Survivors are encouraged to report as soon as they have made the decision and are able to do so to minimize any loss of evidence due to the passage of time. If the Respondent is no longer a Member of the MacMillian Institute of Applied Health Sciences community, MacMillian Institute of Applied Health Sciences is not required to investigate under this policy.

5.4. A student Reporter who wishes to initiate a Formal Report must submit the Report to the SGBVO and is encouraged to meet with the SGBVO for assistance in preparing the report.

5.5. A Formal Report to the SGBVO may be:

5.5.1. 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, to avoid the Reporter having to tell their story on multiple occasions

5.5.2. An oral Report to the SGBVO, which is summarized and signed and approved by the Reporter, prior to submission to the Administrator, or

5.5.3. A written statement by the Reporter providing details of the incident(s).

5.6. Following receipt of a Formal Report about a student respondent, the SGBVO shall submit that Formal Report to the Administrator. If the report relates to an employee, the SGBVO shall submit the Formal Report.

5.7. A Formal Report may be withdrawn by a Reporter at any stage of the process. However, MacMillian Institute of Applied Health Sciences may continue to investigate and act on the Formal Report to comply with its obligation under this policy or its legal obligations. MacMillian Institute of Applied Health Sciences may also continue to act when there is a threat to the safety of the MacMillian Institute of Applied Health Sciences.

5.8. Upon receiving a Formal Report about a student Respondent, the Dean of Students may convene a meeting of the Assessment Committee.

5.9. The Assessment Committee may provide advice to the Dean of Students on whether:

5.9.1. the conduct, if found to have occurred, falls within the scope of this policy 5.9.2. the Respondent is a member of the MacMillian Institute of Applied Health Sciences community, 5.9.3. Immediate Measures are appropriate at this stage. 5.9.4. Alternative Resolution is appropriate. 5.9.5. a college-initiated proceeding is appropriate or required. 5.9.6. proceedings under this policy should continue if a criminal charge is outstanding. 5.10. If the Dean of Students determines that the Formal Report falls within the scope of this policy, they shall appoint an Investigator. The investigator can be either internal or external. 5.11. Every investigator appointed under this policy shall have experience and training in gender-based violence, sexual assault law, anti-oppressive and trauma informed. practice, sexual violence investigations, procedural fairness and the manner in which persons of diverse identities might experience and respond to sexual violence. 5.12. The Dean of Students shall prepare a notice to the Respondent advising them that an Investigator has been appointed to determine whether the Respondent has breached the policy. The SRRO will generally deliver this notice to the Respondent. The Dean's office will also provide a copy of the notice to the SGBVO to provide to the Reporter. 5.13. The role of the Investigator is to make findings of fact and determine whether, on a balance of probabilities, the Respondent has committed an act of sexual violence in breach of this policy. 5.14. Having regard to the rules of procedural fairness, the Investigator shall independently develop the approach to the investigation, which will include interviewing the parties and any witnesses as determined by the Investigator. 5.15. The Investigator shall communicate with the Reporter, Respondent and witnesses, to schedule interviews and receive documents, if any. 5.16. Interviews with the Investigator may be held off campus at the request of either party or where necessary to maintain the confidentiality and integrity of the investigation. Interviews may also be conducted by telephone or through video communication. 5.17. Where a Reporter has submitted a written statement, the Investigator may require the Respondent to prepare a written response, prior to conducting interviews. 5.18. The Investigator may conduct multiple interviews with each party to test the evidence and assess credibility. 5.19. Each party has the right to know and respond to the evidence. The Respondent shall be provided with the Reporter's written Report, statements obtained in the interview. Or summary of the interview and shall have an opportunity to respond.

### **The Reporter**

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. 5.20. If the parties have copies of texts, emails, social media, video recordings, campus security or residence incidence reports, or other similar documents related to the allegations, these should be produced to the Investigator and the other party, prior to any interviews being conducted. 5.21. 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 that party. 5.22. 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 will assist in the investigation. 5.23. The Reporter may withdraw from the Formal Report process at any time. If a Reporter withdraws their participation in the Formal Reporting process, MacMillian Institute of Applied Health Sciences may continue with the Investigation or suspend, close or end the Investigation, depending on factors which include the health and safety of the Reporter, the nature of the allegations, and whether there is sufficient information available to the Investigator to proceed with the Investigation. 5.24. If a Respondent refuses to participate in an Investigation, the Investigator may determine the Report on the basis of the information provided by the Reporter and may draw an adverse inference from the failure to participate. 5.25. 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. 5.26. In addition to any support offered by the SGBVO and the SRRO, Reporters and Respondents may be supported by a support person, including legal counsel, in the investigation at their own expense. 5.27. 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 5.28. The role of legal counsel or a support person may include: 5.28.1. Emotional support for the Reporter or Respondent 5.28.2. Supporting the Reporter or Respondent in preparing to tell their evidence to the Investigator 5.28.3. Assisting the Reporter or Respondent in interview(s) with the Investigator, as permitted by the Investigator, for example by asking questions were the witness forgets key information due to the stress of the process. 5.28.4. Observing the investigation interview(s), including with a view to raising any procedural fairness concerns in a timely way. 5.28.5. Asking questions of the Investigator relating to timing and next steps in the process.

- 5.29. The Investigation should be completed in as timely a way as possible, with the goal of completing the Investigation within 30-60 days following the appointment of an Investigator. MacMillian Institute of Applied Health Sciences recognizes, however, that timelines cannot be fixed due to numerous factors that may impact the progress of an Investigation.
- 5.30. If the Investigation is not completed within 30 days following the appointment of the Investigator, the Investigator shall update the Dean of Students and the parties on the progress of the Investigation on the 30th day following the appointment, and every two weeks thereafter.
- 5.31. At the completion of the Investigation, the Investigator shall prepare a Report that contains:
- 5.31.1. A description of the evidence of all witnesses and any documentary evidence relied on
  - 5.31.2. A discussion of the findings of fact
  - 5.31.3. A discussion of the findings of credibility
  - 5.31.4. A determination as to whether, on a balance of probabilities, any act of sexual violence prohibited by this policy occurred, and
  - 5.31.5. The reasons for the findings of fact and any finding of breach of this policy (and any related policy).
- 5.32. The Investigator's Report constitutes the findings and the reasons for the findings, on which any appeal 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 appeal body to understand the decision and the basis for the decision. The Investigation Report will be provided to the Administrator.
- 5.33. The Administrator may seek further information or clarification from the Investigator before accepting the Investigator's Report.
- 5.33. The Administrator of Students may seek further information or clarification from the Investigator before accepting the Investigator's Report.
- 5.34. Any additional information or clarifications relevant to the Investigation provided to the Administrator of Students by the Investigator, or any additional findings, shall be communicated to the parties in writing by the Investigator and, where appropriate, the parties shall be given an opportunity to respond.
- 5.35. The Reporter and Respondent are both entitled to a copy of the Investigation Report prepared by the investigator. Copies of the Report provided to the parties shall be redacted of identifying information of any person other than the person receiving the Report, in accordance with applicable privacy legislation.
- 5.36. In cases where there are multiple Reports, each Reporter will only receive the portion of the Investigator's Report that relates to their allegation(s).

## **6. SANCTIONS**

6.1. Upon receipt of an Investigation Report where the Investigator has found that this policy has been breached, the Administrator will share the Report with the Reporter and Respondent. The Reporter and the Respondent will be provided with 7 days to make written submissions to the Administrator with respect to appropriate sanctions. A Reporter may include in the submission the impact of the sexual violence on the Reporter. The Reporter and Respondent may also request to meet with the Dean of Students instead of a written submission.

6.2. Upon receiving the Investigator's Report and the submissions of the parties, the Dean of Students, in consultation with the Assessment Committee, will determine the appropriate sanctions.

6.3. In determining sanctions, the Administrator may consider:

6.3.1. The sanction or remedy sought by the Reporter.

6.3.2. The principle of progressive discipline

6.3.3. MacMillian Institute of Applied Health Sciences' role as an educational institution

6.3.4. The nature and severity of the incident

6.3.5. The impact of the conduct on the Reporter's continued education or employment at MacMillian Institute of Applied Health Sciences

6.3.6. The impact of the conduct on the MacMillian Institute of Applied Health Sciences community

6.3.7. MacMillian Institute of Applied Health Sciences' commitment to combating sexual violence on campus; and

6.3.8. MacMillian Institute of Applied Health Sciences' commitment to reducing the barriers to reporting.

6.4. Sanctions for a finding of a breach of the policy may include, but are not limited to, the following:

6.4.1. written warning or reprimand.

6.4.2. remedial, educational or restorative measures, such as written apologies, project or service work and attending educational or training activities.

6.4.3. probation or behavioural contract, the breach of which will result in further discipline

6.4.4. supervision or oversight of teaching/learning/work environment by MacMillian Institute of Applied Health Sciences

6.4.5. suspension or denial of college privileges, including restrictions on accessing all or parts of the MacMillian Institute of Applied Health Sciences campus, residence or online platforms, and suspension or removal of a student from a sports team

6.4.6. suspension from academic program of study, including any placement or cooperative education activities.

6.4.7. termination from employment

6.4.8. academic or non-academic discontinuance

6.5. Within 7 days of receipt of submissions from the parties, the Dean of Students shall issue a written decision setting out the disciplinary and/or remedial measures ordered by MacMillian Institute of Applied Health Sciences. The decision will include the reasons for the measures imposed and the information relied on in making that decision.

6.6. If the Administrator consulted with others in determining discipline or remedial measures, the written decision shall include in their reasons for decision the names of the individuals they consulted, and the information relied on from that person (with the exception of consultations with legal counsel).

6.7. Both the Respondent and the Reporter are entitled to copies of the remedial or disciplinary decision made by the Administrator. Copies of the decision letter provided to the parties shall be redacted of identifying information of any person other than the person receiving it. All parties shall keep the decision confidential, except to the extent that it is necessary to share information to enforce the disciplinary and remedial measures.

## **7. STUDENT APPEALS**

7.1. A Reporter or Student Respondent may appeal a finding of breach of this policy by the Investigator or the disciplinary or remedial measures ordered by the Administrator, on the following grounds:

7.1.1. A serious procedural fairness error that caused prejudice to the party seeking the review.

7.1.2. 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.

7.1.3. New facts relevant to the final determination are available, that were not available during the investigation; or

7.1.4. The sanctions are unreasonable.

7.2. Appeals must be made in writing by either a Reporter or Respondent and submitted to the SGBVO (for the Reporter) or the SRRO (for the Respondent) within 7 days of delivery of the decision of the Administrator.

7.3. The written request for appeal must provide sufficient evidence to support one of the four grounds in 7.1 above, including:

7.3.1. A statement for the grounds of appeal

7.3.2. A statement of the facts relevant to the grounds for appeal

7.3.3. A statement of the remedy or relief sought.

7.3.4. Copies of relevant documents that support the appeal, and

7.3.5. In the event of new evidence that was not available at the time of the investigation, copies of that evidence or witness statements and an explanation as to why the evidence was not available earlier.

7.4. Appeals shall be decided by the Appeals Committee, which shall be a panel selected by the Vice President, Academic and Student Affairs and comprised of four persons as follows:

7.4.1. An external lawyer, who will serve as the Chair, and who has experience in administrative law, procedural fairness, gender-based violence and sexual harassment and sexual assault law, and

7.4.2. Three other persons, who have training or experience in this policy, procedural fairness, or sexual/gender-based violence and sexual harassment, preferably one member from Academic Administration, one member from Student Affairs, and a

student as appointed by the MacMillian Institute of Applied Health Sciences Students Inc. President. 7.5. The Appeal Committee will provide with the Decision Letter, Investigative Report Summary, and the Appeal Letter. 7.6. The Appeal Committee, by consensus may summarily dismiss an Appeal that it determines does not raise a valid ground of review. 7.7. An Appeal under this policy is not a hearing or re-hearing of the evidence and is limited to the grounds set out in section 7.1. In most cases, the Appeal will be heard in writing only. Where the sanction is a suspension or discontinuance, the Appeals Committee shall convene an oral hearing to hear submissions (and not evidence) at the request of the appealing party. 7.8. Any sanctions ordered will remain in force until the Appeal is decided. 7.9. Where an appeal has been requested by either party, the other party shall be entitled to notice of the Appeal, the basis for the appeal (including any new evidence), an opportunity to respond and, if there is an oral hearing, an opportunity to attend and make submissions. 7.10. If the Appeals Committee determines that any of the grounds of appeal set out in 7.1 are made out in relation to the Investigator's findings, the Committee may, depending on the reasons for decision and the circumstances of the case before it: 7.10.1. Refer the case and sanctions back to the Administrator and the Investigator for reconsideration. 7.10.2. Refer the case back to the Administrator and recommend a new investigator. be appointed to conduct a new investigation. 7.10.3. Order that any Immediate Measures in place during the investigation continue, pending a risk review by the Administrator and the Assessment Committee 7.10.4. Direct the Administrator to determine whether any Immediate Measures should be imposed pending the re-investigation, and/or 7.10.5. Suspend any discipline or remedial measures ordered as a result of the finding. 7.11. If the Appeals Committee determines that any of the grounds of appeal set out in 14.1 are made out in relation to the sanctions, the Committee may: 7.11.1. Uphold the sanctions, or 7.11.2. Modify or reverse the sanctions and substitute its own decision. 7.12. The Appeals Committee will issue its decision in writing. The decision will include an explanation of the basis and reasons for the decision in relation to each ground of appeal put before the Committee. 7.13. The decision of the Appeals Committee will be final.

## **8. ALTERNATIVE RESOLUTION**

- 8.1. In appropriate circumstances, a Survivor 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.
- 8.2. The foundational principle and starting point of an alternative resolution is the Respondent's acceptance of responsibility for causing harm.
- 8.3. Alternative resolution is presumptively inappropriate where previous Reports have been made about the Respondent or where MacMillian Institute of Applied Health Sciences has received multiple disclosures about the Respondent.
- 8.4. At no time should either a Survivor or Respondent be pressured to participate in an alternative resolution process. Alternative resolution will only be explored with the consent of the Survivor, Respondent and MacMillian Institute of Applied Health Sciences.
- 8.5. Parties that engage in alternative resolution, do so on a 'without prejudice' basis. Either the Survivor 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, unless required by law.
- 8.6. The goals of the alternative resolution process are acceptance of responsibility, mutual understanding, safety, education and remediation.
- 8.7. After meeting with the Survivor and the Respondent, the individuals involved from the Sexual and Gender-Based Violence Office and the Student Rights and Responsibilities Office will consult with the Administrator to determine whether the matter is appropriate for a referral to alternative resolution. Where an alternative resolution process is approved by the Administrator to proceed, both the Survivor and Respondent must consent to participation in the process, which consent will be confirmed in writing. Consent to participating in the process includes consent to sharing of information.
- 8.8. 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 facilitation or counselling.
- 8.9. An alternative process does not require any face to face or in-person interaction between the Survivor and the Respondent.
- 8.10. The outcomes of a facilitated alternative resolution process may include:
  - 8.10.1. an apology letter from the Respondent.
  - 8.10.2. a written agreement signed by the Respondent that includes behavioural expectations.
  - 8.10.3. an undertaking by the Respondent to engage in counselling, including drug and alcohol counselling, and/or education or training, such as related to antiviolence, anti-oppression or consent.
  - 8.10.4. a voluntary agreement by the Respondent to measures, such as restrictions on campus or a campus ban.
  - 8.10.5. a year's leave of absence.

8.10.6. withdrawal from MacMillian Institute of Applied Health Sciences.

8.11.A record of the alternative resolution shall be maintained by in the student. file and in the employee files of MacMillian Institute of Applied Health Sciences employees in accordance with the terms of any collective agreement or applicable employee policies.

## **9. PARALLEL CRIMINAL PROCEEDINGS**

9.1. A Respondent is required to provide to MacMillian Institute of Applied Health Sciences information on any current criminal. charges faced by the Respondent and criminal conditions, such as bail or conditions of release, relating to any incident(s) of sexual violence that are the subject matter of the incident.

### **Disclosure or Report.**

9.2. Where a student Respondent has been charged criminally for a sexual violence related offence, MacMillian Institute of Applied Health Sciences will suspend any ongoing investigation under this policy until resolution of the criminal charge, unless:

9.2.1. The investigation is complete (all interviews are finished) and the Investigation Report has been submitted to the Administrator.

9.2.2. The police or Crown do not object to MacMillian Institute of Applied Health Sciences commencing or continuing the investigation; or

9.2.3. Exceptional circumstances exist, such as relating to the health and safety of the Reporter or campus community that is not otherwise addressed by any criminal conditions or Immediate Measures imposed.

## **10. THIRD PARTY AND ANONYMOUS REPORTING**

10.1.A third party who has information about an incident of sexual violence against another person, may submit that information, either verbally or in writing, to the SGBVO. Where the information relates to an identifiable or identified Survivor, the consent of that Survivor should be sought before the information is provided to MacMillian Institute of Applied Health Sciences

10.2. Information about an incident of sexual violence may be shared in a form that is anonymous, for example when the SGBVO receives a written submission with no name attached to it, or a person attends the SGBVO but will not disclose their name. An Anonymous Report may be made by a Survivor or a Third Party.

10.3. MacMillian Institute of Applied Health Sciences 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.

10.4. Examples of where MacMillian Institute of Applied Health Sciences may initiate its own investigation following one or more Third Party or Anonymous Reports includes where there is social media or other evidence documenting sexual violence and/or where persons witnessed sexual violence against a person who was incapacitated, unconscious or asleep. Where there are multiple Disclosures and one or more persons has made a Formal Report, but others have only made a confidential Disclosure, MacMillian Institute of Applied Health Sciences may investigate the totality of the

conduct by the Respondent, including by revealing the confidential Disclosures to an investigator in the course of the investigation or by asking those who made confidential.

**Disclosures to participate in the investigation.** 10.5. Where MacMillian Institute of Applied Health Sciences receives multiple Third Party or Anonymous Reports, MacMillian Institute of Applied Health Sciences may also explore what steps may be taken short of an investigation (which would require release of the identity or identities of the Survivor(s)), such as targeted education and training, and/or increased campus security or monitoring of specified locations or events. 10.6. Where MacMillian Institute of Applied Health Sciences proceeds with an investigation following a Third Party or Anonymous Report, the Survivor has the right to choose not to participate. MacMillian Institute of Applied Health Sciences will consult with that person, if they are willing, on the risks or concerns to them in response to the investigation and how those risks can be minimized or addressed. 10.7. Information provided by third party or anonymous sources may inform training or education to address systemic concerns or other policy changes at MacMillian Institute of Applied Health Sciences

## **11. PUBLIC STATEMENTS BY SURVIVORS OR OTHERS**

11.1. Survivors and those impacted by sexual violence are free to tell the story of their own experiences. During an ongoing investigation, however, confidentiality should be maintained.

11.2. 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.

## **12. DATA COLLECTION AND MINISTRY REPORTING**

12.1. MacMillian Institute of Applied Health Sciences is required to collect and report data on sexual violence to the Ministry of Training, Colleges and Universities in a report on an annual basis. This data is also provided to the MacMillian Institute of Applied Health Sciences Board of Governors. This data is also collected and used to inform education, prevention, and training initiatives. The data is collected centrally at MacMillian Institute of Applied Health Sciences by the SGBVO.

12.2. In support of MacMillian Institute of Applied Health Sciences's obligations set out under 19.1, the SGBVO will produce and provide an annual report outlining:

12.2.1. The number of times supports, services and accommodation relating to sexual violence are requested and obtained by students enrolled at the College or university, and information about the supports, services and accommodation.

12.2.2. Any initiatives and programs established by the College or university to promote awareness of the supports and services available to students.

12.2.3. The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.

12.2.4. The implementation and effectiveness of the policy.

12.3. The Director of Human Resources will provide the SGBVO information related to Disclosures and Reports made to the Human Resources office, including the information set out in para 19.2 above, to ensure completeness of the annual report.

12.4. The annual report will be made available to the College community, subject to any restrictions required by applicable privacy law.

### **13. POLICY REVIEW**

13.1. This policy and procedures are subject to Board of Governors approval and will be reviewed every three years or as necessary and in consultation with the MacMillian Institute of Applied Health Sciences community.

### **REFERENCES:**

Freedom of Information and Protection of Privacy Act  
Ministry of Training, Colleges and Universities Act, O. Reg. 131/16: Sexual Violence at Colleges and Universities  
Occupational Health and Safety Act  
Ontario Human Rights Act  
Personal Health Information Protection Act

### **RELATED DOCUMENTS:**

Academic Collective Agreement and Support Staff Collective Agreement College  
Discrimination and Harassment Prevention Policy  
Human Resources Policy  
Sexual Harassment Policy  
Student Rights and Responsibilities Policy  
Transcript Policy

### **REVISION LOG:**

Academic Forum October 19, 2022  
Academic Coordinating Committee October 26, 2022  
Board of Governors December 5, 2022  
Next Review date 2027