



SC17: Sexual Misconduct Policy

**AMS SASC Submission to the UBC Board of Governors
People, Community & International Committee**

May 2020

Table of Contents

Executive Summary	3
Recommendation 1: Trauma Informed and Low Barrier Approaches	4
Recommendation 2: Safety Planning and Interim Safety Measures	5
Recommendation 3: Implementation Committee and Continued Community Engagement	5

Executive Summary

The AMS Sexual Assault Support Centre (SASC), created by UBC students in 2002, is a service provided by the Alma Mater Society (AMS) at UBC. The AMS SASC is committed to the education, support, and empowerment of survivors of all genders. We work from an intersectional feminist and anti-oppressive framework and aim not only to support survivors but also to change culture and end sexualized violence. We serve students, staff, faculty, and folks with a connection to the UBC community, as well as survivors' family and friends.

The AMS Sexual Assault Support Centre (SASC) has reviewed the Final Draft of SC17: Sexual Misconduct and Sexualized Violence Policy. We are grateful for the opportunity the SASC had to consult with the Review Committee and are pleased to see many recommendations from the SASC included in the updated policy. However, we do not believe these changes have gone far enough in enacting necessary amendments that would fully support survivors at UBC. The potential harms to survivors who try to access this policy can be mitigated by further amendments and collaborative implementation with all UBC community members who routinely interact with SC17.

Furthermore, community consultation, with the SASC as well as other individuals and groups on campus, was minimal and came too late in the policy review process to make significant changes. The SASC therefore respectfully submits the recommendations below for the Board of Governors' consideration. In particular, we urge the Board to seriously consider creating an Implementation Committee that would address issues with implementation as they arise, as discussed further in Recommendation 3 below.

Thank you to members of the Committee for your consideration of this submission.

Sincerely,



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Recommendation 1: Trauma Informed and Low Barrier Approaches

- 1.1 The added definition of a trauma-informed approach is a satisfactory start in recognizing UBC's responsibility to its members. The SASC knows that trauma-informed approaches must be intersectional if they are to truly reduce barriers for those who are the least likely to disclose and report. Ignoring the needs of communities that have been oppressed serves to further isolate these groups, perpetuate power imbalances and increase the chance that these populations are made targets of violence.

In the principles and commitments section of SC17, it states that UBC will recognize and take into account intersecting identities, including Indigeneity. However, there is no explanation for how the policy intends to enact these considerations and no mention of what it would look like to take a decolonial approach.

- The SASC recommends working with Indigenous communities specifically on this policy to implement existing self-determined, Indigenous-led and culturally safe services and responses to sexualized violence.

An Implementation Committee with representation from Indigenous communities would provide a space for consultation and collaboration without the limitations of the mandated 3-year policy review period.

While an Indigenous Strategic Plan is certainly needed to address issues beyond the scope of this policy, there is an urgent need to recognize intersectionality and Indigeneity within the scope of SC17. This can be accomplished by implementing the above recommendations.

- 1.2 With respect to trauma-informed training, the SASC is pleased with the amendment made to offer training to UBC persons responsible for addressing Sexual Misconduct, including decision-makers. There is a real potential for harm to a survivor when people interacting with SC17 do not understand the many impacts of sexualized violence on a person's life. However, this policy does not require mandatory training. Non-mandatory training cannot assure a trauma-informed approach as it will mean that there is nothing preventing decision-makers from opting out of training. An amendment for mandatory training can mitigate some of these potential harms.
- The AMS SASC recommends mandatory, yearly trauma-informed training not only for key decision-makers, but all staff and faculty who may interact with this policy.

An implementation committee would have an essential role in developing the components of this trauma-informed training to ensure a consistent understanding of a trauma-informed approach across campus. Members of the implementation committee should be the first to receive training as they will regularly interact with the SC17 and oversee and monitor UBC's response to sexual violence.

- 1.3 Finally, in section 8, student survivors are not presented with an appeals process or alternative options following the outcome of a decision. The policy is not survivor-centric or trauma-informed when only student respondents and staff and faculty are provided with options for appeal. While this policy may not allow for changes to be made in how Senate conducts and manages appeals, there is room for this policy to provide survivors with other options. It will be important for the implementation committee to collaborate with the Investigations Office to identify other avenues for survivors to re-submit reports.

- The SASC recommends providing viable options for appeal under this policy to ensure both complainants and respondents are given equal access to appeals processes. Possible bases of appeal should include the finding of new evidence, procedural errors, or the appropriateness of a sanction.

For further information on trauma informed and low barrier approaches, please see Appendix 1, the SASC's February 2020 submission to the Review Committee.

Recommendation 2: Safety Planning and Interim Safety Measures

- 2.1 The SASC previously presented a number of recommendations to the Review Committee on ways in which amendments to SC17 could protect survivors from retaliation and the possibility of psychological, emotional and physical harm. For further context, please see Appendix 2, the SASC's January 2020 submission to the Review Committee. Unfortunately, the amendments do not address the SASC's concerns related to interim safety measures.

We acknowledge that SC13: Response to At-Risk Behaviour policy primarily governs threats to personal safety, but strongly emphasize that this policy creates a definition of at-risk behaviour that will not protect survivors in most circumstances. SC17 therefore cannot entirely defer to and rely on SC13 for interim safety measures. For example, the At-Risk Behaviour policy has regularly been interpreted to refer only to physical safety and does not explicitly include risk to psychological safety. Furthermore, asking survivors to navigate multiple policies creates a complex bureaucratic process with additional barriers.

- The SASC recommends incorporating interim safety measures directly into SC17 to reduce unnecessary bureaucratic barriers for the survivor and improve the safety of survivors on campus.
- 2.2 When there is not a singular unit responsible for the implementation of interim safety measures, there is a risk that survivors will not receive the supports they need. A specific unit holding this responsibility may help prevent the deflection of responsibility that the SASC regularly witnesses and would minimize the number of individuals with access to a survivor's personal information. Clarification and transparency as to which UBC unit holds the private and confidential information of survivors is necessary in providing trauma-informed services and support.
- The SASC recommends clarifying which UBC unit ultimately holds responsibility for the implementation and monitoring of interim safety measures.
 - The SASC recommends specifying that coordinating interim safety measures may require the creation of a response coordination team to ensure survivors are aware that their personal information may be shared beyond the SVPRO for the purpose of some safety planning measures, such as interim restrictions on campus.

Recommendation 3: Implementation Committee and Continued Community Engagement

- 3.1 The SASC supports the Review Committee's recommendation of forming an Implementation Committee and urges the Board of Governors to create such a committee. A number of Canadian

universities, including Concordia University and McGill University have formed standing Implementation Committees to oversee and coordinate efforts to respond to sexual misconduct.

An Implementation Committee mandated to regularly monitor SC17 will allow for the opportunity to address gaps in UBC's response to sexual violence at more frequent intervals than once every 3 years, as laid out in section 12. Members of the UBC community interact with SC17 every day and as such, more frequent community engagement and consultation is needed amongst actors who interact with the policy.

- The SASC recommends the formation of an Implementation Committee, including representation from student representatives, the SASC, unions, UBC administrative and support staff and other relevant groups who regularly interact with SC17. A Committee without members from the groups directly impacted by this policy would be inadequate and undermine any ability to claim a survivor-centric approach.

The SASC continues to view the policy's opaque and legal language as a deterrent which prevents survivors from having control and autonomy over their options at UBC. The Review Committee acknowledged the desire for an accessible and useable policy, but in our view, did not go far enough in addressing the absolute necessity of ensuring the policy is accessible to all members of the UBC community. Additionally, the vague language throughout the policy allows for various interpretations that may create inconsistencies in how survivors seek and receive support. This is one, among many, areas where an Implementation Committee would be vital in ensuring that plain language resources reflect the needs of all members of the UBC community. For further reading on this recommendation, please refer to the AMS' submission, in particular Recommendation 4.

Moving forward with the Implementation Committee is an important step to ensuring the policy is implemented in accordance with its stated values and any potential misinterpretation is mitigated earlier than the three-year review.



February 28, 2020

Equal access to education is a fundamental right. Sexual Assault policies at post-secondary institutions are intended to support a student survivor's fundamental right to access, and continue to access, their education. However, if sexual assault policies are not designed adequately for their intended use, at best, they will not be used, and at worst, may inadvertently do more harm than good to a survivor. Designing a policy with all survivors in mind is imperative in order to protect survivor's rights to remain in at the university and to focus on their education and their future.

At the SASC, we bear witness to the real-life impacts of policy on survivors. We are the ones to explain it to survivors, and to walk with them as they navigate it. From this position, we have first-hand insight into what makes policy useable, and what can make it harmful. Our suggestions come from the key values that we know help survivors to maintain their dignity and their rights after a sexual assault. These are based on frameworks that are anti-oppressive, trauma-informed, survivor-centric, and low-barrier.

We'd like to give some background on the values and approaches behind the recommendations we have made to improve the policy and why they are vital to serving survivors and promoting a supportive culture on campus that fosters mental health and resiliency at UBC.

Anti-oppressive approaches:

Refers to approaches that recognize inequities created by oppression in our society. An anti-oppressive approach attempts to mindfully mitigate oppression's many effects, with the goal to eventually live in a society where all people are able to live without fear, unfair disadvantage, and violence. Until we live in that society, it is important to acknowledge the inequities that shape the way individuals are able to access support and services through policy.

Oppression is the use of power to control, disempower, marginalize, silence or otherwise subordinate one social group or category, often in order to further empower and/or privilege the oppressor. Social oppression may not require formally established organizational support to achieve its desired effect; oppression may be enacted and experienced on informal, individual basis. From: <https://www.antiviolenceproject.org/anti-oppressive-practices/>

An anti-oppressive approach to policy requires acknowledging that not everyone can access policies equally due to disadvantaged and traumatic experiences with institutions – for example, there are students who may never think to report violence that has been done to them because their position in society has taught them that justice is not on their side, that they will not be cared for or believed, that their needs are not the concern of people in authority, and that the violence done to them was somehow inevitable. They are often unaware of their rights and uncertain of how to access help. Violence and trauma destabilizes people's worlds and can dramatically reduce trust and personal capacity to fight on one's own behalf. The most vulnerable people may be the people most impacted and disadvantaged by policy, even when that policy seeks to help them.



Therefore, an anti-oppressive approach to policy requires making concerted efforts to incorporate low-barrier and trauma-informed approaches to support services and investigation.

Trauma-informed approaches:

Trauma is:

- An event (or events) that cause significant fear, helplessness, dissociation, confusion, or other disruptive feelings intense enough to create a long-lasting negative effect on a person's mental health, emotional wellbeing, attitudes, behavior, relationships, and other aspects of functioning.

-Trauma challenges an individual's view of the world as a just, safe, and predictable place.
American Psychological Association

Keep in mind that trauma is pervasive. Up to 75% of college students report having experienced a traumatic event and reported rates of post-traumatic stress disorder (PTSD) in college samples are similar to those reported in community samples, which are 8-9% (American College Health Association, 2018).

Comparative to other traumatic events such as car accidents, there is a significantly higher frequency of developing PTSD after sexual violence. One of the most vital ways we can reduce longer-term damage is in the way we treat survivors after they disclose.

Trauma-informed refers to approaches that understand and validate the experience of a person coping with trauma and that make concerted efforts to avoid compounding the negative impacts of trauma on a survivor's life.

Sexual assault is a major act of betrayal. As such, when survivors look for help, it can compound feelings of utter betrayal to find that the institution they trust in the wake of an assault is also capable of betraying them.

Re-traumatization happens when survivors reflect that how they were treated by "helping" people after the assault negatively affected them, sometimes worse than the assault itself. Many of the SASC's recommendations for the Committee aim to prevent and mitigate re-traumatization for survivors navigating the policy.

Survivor-centric approaches:

Refers to approaches that prioritize the rights, needs, and wishes of survivors.

Survivor centrism comes from a human rights-based approach promoted by UN Women.

The survivor has a right to:

1. be treated with dignity and respect, and to not endure exposure to victim-blaming attitudes.
2. choose the course of action in dealing with the violence instead of decision-making being done for them



3. privacy and confidentiality to be upheld and protecting the survivor from undue exposure and invasion.
4. non-discrimination and justice irrespective of gender, age, race/ ethnicity, ability, sexual orientation, HIV status or any other characteristic.
5. receive comprehensive information to help them make their own decision instead of being told what to do

<https://www.endvawnow.org/en/articles/652-survivor-centred-approach.html>

Translating this to our recommendations to the policy, we know that in order to give control and dignity back to a survivor, survivors must be given choices on how to proceed, and be thoroughly informed on the possible outcomes of their choices.

Survivors will make the right choices for themselves so long as they are given adequate information. It is vital that decisions be placed firmly in the survivors' hands, and that all actions done on their behalf are done with the survivor's express, informed consent. Their confidentiality must be honored, and survivors need to be informed immediately of their rights to confidentiality.

Having power and control taken from survivors, even by well-meaning helpers, has the potential to lead to negative, unintended consequences for the survivor, along with compounding feelings of confusion, helplessness, betrayal, frustration, and lost trust.

Low-barrier approaches:

Refers to approaches that aim to create as few barriers as possible to allow more people to access services.

Practical ways to minimize barriers include:

1. Minimizing, wherever possible, paperwork, waiting lists, and eligibility requirements;
2. Ensuring staff are knowledgeable about and able to implement trauma-informed approaches;
3. Providing individualized and culturally competent support that is relevant to the survivors' circumstances;
4. Reducing the number of offices, people, and policies a survivor must contact in order to obtain information, support, next steps, and follow-up; and
5. Policies, people, and offices must not refer to each other or defer responsibility to each other, leaving the survivor confused and exhausted. Clear responsibilities must be outlined so that everyone a survivor is in contact with may communicate concrete knowledge of their responsibilities to the survivor.



SC17: Sexual Misconduct Policy
SASC Review and Recommendations

January 2020

Table of Contents

Executive Summary	2
1. Trauma Informed and Low Barrier Approaches.....	4
2. Maximizing Choice and Restoring Control	6
3. Safety Planning and Interim Safety Measures	10
4. Confidentiality and Information Sharing Practices between UBC Units	11

Executive Summary

The AMS Sexual Assault Support Centre (SASC), created by UBC students in 2002, is a service provided by the Alma Mater Society (AMS) at UBC. The AMS SASC is committed to the education, support, and empowerment of survivors of all genders. We work from an intersectional feminist and anti-oppressive framework and aim to not only serve survivors, but to change culture and end sexualized violence. We serve students, staff, faculty, and folks with a connection to the UBC community, as well as survivors' family and friends.

After 18 years of advocacy on sexual violence at UBC, the AMS SASC is pleased to see the university take steps towards addressing the prevalence of sexual violence through the 2017 creation of SC17: Sexual Misconduct Policy. However, it is disappointing that the Review Committee excluded student services and groups, such as the AMS SASC, who have been providing sexual violence support services long before the existence of offices such as UBC's Sexual Violence Prevention and Response Office (SVPRO) and Independent Investigations Office (IIO).

While the AMS SASC received a formal consultation meeting with the committee co-chair and a representative of the Office of the University Counsel, a 90-minute meeting is insufficient to address the policy gaps our staff see on a daily basis, as one of the primary organizations helping survivors navigate support and reporting options on- and off-campus. We further note the exclusion of other important groups on campus, such as the numerous unions and associations representing thousands of employees, who also have significant insight into this policy's impact on staff and faculty. Without insight from these key groups, the revised policy continues to have significant shortcomings, including the policy's opaque, legal language and lack of clarity around trauma-informed principles, as will be discussed in our recommendations.

We urge the Office of the University Counsel and the Review Committee to reconsider their decision to exclude representation from groups who work with this policy on a daily basis. The policy review process presents the UBC community with an opportunity to reflect on the policy's gaps, and to ensure that the revised policy better reflects trauma-informed and survivor-centric approaches. However, this can only happen by meaningfully consulting with all relevant stakeholders.

The AMS SASC is hopeful about moving towards a more collaborative working relationship with UBC in our shared goal of ending sexualized violence and providing trauma-informed services for survivors. An important step towards this is recognizing

the AMS SASC's crucial role in supporting survivors at UBC and ensuring that our recommendations below are given the weight that our history of service on this campus deserves.

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1. Trauma Informed and Low Barrier Approaches

The AMS SASC is pleased to see that SC17's Principles and Commitments continue to prioritize reducing barriers to disclosing and reporting and to increasing trauma-informed approaches. However, the revised policy lacks a clear definition and guidelines for how such an approach will be implemented. ***Without a common understanding of how, operationally, low barrier and trauma-informed approaches will minimize barriers for disclosing and reporting, any stated commitment is jargon without impact.*** Furthermore, the policy overpromises a trauma-informed approach to investigations, often setting survivors up for re-traumatization and disappointment. Clearly defining trauma-informed approaches will better communicate to survivors of sexualized violence what they can expect under the policy and will provide an expected standard for staff implementing the policy.

- 1.1 While there are many definitions of trauma-informed approaches, the AMS SASC recommends an approach that is in line with that of the Ending Violence Association of BC (EVA BC): ***“Being trauma-informed within the campus context means understanding the impacts of sexual violence and sexualized trauma on victims/survivors (and others) and responding in a manner that promotes empowerment and recovery and minimizes re-traumatization.”***¹ Additionally, it is important to differentiate between trauma-informed and survivor-centric, where trauma informed requires that policies and procedures recognize the impacts of trauma and survivor-centric requires “placing the control and decision-making back into the harmed person’s hands....” This approach has been adopted by other university policies. For example, the University of Victoria includes the following definitions of trauma-informed and survivor-centric approaches:

“trauma-informed” means incorporating an understanding of the impact that sexualized violence has on a person’s life, to minimize re-victimization, and facilitate recovery and empowerment.

“survivor-centred” means prioritizing the safety and choices of survivors and those impacted by sexualized violence.²

¹ EVA BC (2016), [Campus Sexual Violence: Guidelines for a Comprehensive Response](#), at 22.

² University of Victoria, [Sexualized Violence Prevention and Response Policy](#).

- 1.2 The AMS SASC recommends removing reference to ‘trauma-informed’ from the policy in sections related to reporting and investigations, such as section 6.1. While it is commendable that the IIO remains committed to hiring investigators trained in trauma-informed approaches, an investigation process cannot be entirely trauma-informed and it is misleading to survivors to promise trauma-informed investigators. Instead, the AMS SASC recommends including a tangible list of what survivors can expect from the IIO, such as being provided with information to allow them to make autonomous and informed decisions about reporting options, the option to withdraw from the investigation at any time, and the possibility of interim safety measures to protect them from retaliation.³
- 1.3 The Principles and Commitments lack any mention of being accountable to a decolonial process of understanding and responding to sexualized violence. Given UBC’s presence on xʷməθkʷəy̓əm lands and the distinct impacts of sexualized violence and ongoing settler colonialism on Indigenous communities, this is a glaring gap in the policy. ***Trauma-informed approaches must be intersectional if they are to truly reduce barriers for those who are the least likely to disclose and report under the policy and to avoid reproducing the harms the policy is meant to address.*** The AMS SASC recommends including a commitment to acknowledging the intersectional barriers that members of the UBC community will face in disclosing and reporting under the policy and to working with Indigenous communities to implement existing self-determined, Indigenous-led and culturally safe services and responses to sexualized violence. Similar recommendations can also be found in the report “Courage to Act: Developing a National Draft Framework to Address and Prevent Gender-Based Violence at Post Secondary Institutions in Canada”, which the AMS SASC recommends reviewing.⁴
- 1.4 The AMS SASC additionally recommends that the following list of trauma-informed principles is incorporated into the policy in section 2. Definitions and operationalized throughout the policy:
- Acknowledging the impact of trauma
 - Empowering victims/survivors

³ See, for example, s. 7.4 of SFU’s [Sexual Violence and Misconduct Prevention, Education and Support \(GP44\) Policy](#).

⁴ Khan, F., Rowe, C.J., and Bidgood, R. (2019), “Courage to Act: Developing a National Draft Framework to Address and Prevent Gender-Based Violence at Post-Secondary Institutions in Canada” at 23.

- Maximizing choice related to disclosing, reporting, and accessing support
- Restoring control to the victim/survivor
- Recognizing the victim/survivor’s need for (and right to) safety
- Building on the victim/survivor’s strengths
- Treating the victim/survivor with dignity and respect
- Moving forward at the victim/survivor’s own pace, and
- Respecting the victim/survivor’s right to privacy⁵

While all of the principles require ongoing commitment and improvement, in the AMS SASC’s experience supporting survivors on this campus, ***SC17 has particularly severe limitations in maximizing choice, restoring control, recognizing need for and right to safety, and respecting right to privacy.*** The remaining sections of our comments will address each of these in turn.

2. Maximizing Choice and Restoring Control

As acknowledged in the principles above, it is integral that responses to sexual violence provide the survivor with choice, agency and control. Unfortunately, several gaps in the policy have led to problematic interpretations that compromise survivors’ choices at UBC. For example, the phrase ‘*single point of contact and liaison*’ has been repeatedly interpreted as requiring students to access services through the SVPRO to the exclusion of any other support person or advocate. ***Students must be able to choose the support person or advocate that they trust***, whether it is someone from the SVPRO, SASC or another off-campus community-based victim services agency. Unfortunately, the SASC has repeatedly seen students be denied their advocate of choice from community organizations such as the SASC, WAVAW, and BWSS among others.

Limiting choices is not only inconsistent with the policy’s stated commitment to trauma-informed approaches, but is also inconsistent with the recently amended Senate Academic Concessions policy, which states that students may choose support from a UBC unit or outside agency, such as the AMS SASC, to have a “representative communicate with the academic advising office on their behalf.” SC17 should similarly emphasise that, while the SVPRO can coordinate services listed in section 8.3,

⁵ EVA BC, *supra* note 1.

students are not required to disclose to SVPRO to access services and can choose any representative—on or off campus—to coordinate assistance from other campus units.

Additionally, SC17 does not outline the options for reporting, including the option of no report, and only includes reference to UBC's own Independent Investigation Office. SC17 should explicitly outline the reporting choices, including the limits of confidentiality associated with each, and the possibility, if available, of withdrawing a report. ***Restoring control and agency to the survivor requires that they are aware of all of the options available to them. Survivors who are members of the UBC community should be entitled to decide on the best option for disclosure, support and reporting for their circumstances.***

As such, the AMS SASC makes the following recommendations:

- 2.1 Adopt a summary of the SVPRO that more accurately reflects their role on campus and provides a more detailed description of their services. For example, the following is excerpted from Simon Fraser University's Sexual Misconduct Policy

5.2 The Sexual Violence Support and Prevention Office will:

- f. work closely with off-campus services as well as on-campus service units including Health & Counselling and Campus Security to ensure timely and coordinated assistance, support and referrals for members of the University Community affected by Sexual Violence and Misconduct and to reduce the repetition of Disclosures and Reports by a Survivor;

As will be discussed below, such a description more accurately reflects the ways in which the SVPRO may need to release personal information to other UBC units to coordinate assistance for students.

- 2.2. ***Clarify in sections 5, 8 and Procedures section 1.2 that survivors are not required to disclose to the SVPRO. Further, they may choose a representative from the SASC or another community agency to communicate with UBC units and coordinate assistance, support services and accommodations.*** Survivors who have already disclosed to an organization other than the SVPRO are otherwise under the impression that

they must disclose again to the SVPRO, or that they have disclosed to the “wrong” organization.

2.3.

2.4. Emphasise survivors’ available choices related to both disclosures and reporting. As an example, Simon Fraser University’s Sexual Misconduct policy emphasises survivors’ options and choice at several points:

7.4 A member of the University Community who Discloses or Reports to the Sexual Violence Support and Prevention Office that they have experienced Sexual Violence and Misconduct can expect to:

...

c. learn about on- and off-campus services and resources;

...

e. ***learn about the options*** and procedures for initiating internal and external processes to address an incident of Sexual Violence and Misconduct, as outlined in section 8 of this policy, ***and the limits to confidentiality associated with each option;***

...

g. be provided with information ***to allow them to make autonomous and informed decisions*** about which services they believe will be the most beneficial; and

h. be provided with information to allow them to make autonomous and informed decisions about which of the options outlined in section 8 to pursue, if any.

7.5 A Survivor who Discloses to the Sexual Violence Support and Prevention Office that they have experienced Sexual Violence and Misconduct is ***entitled to decide whether to:***

a. access available on- and off-campus services and to choose the services they feel will be the most beneficial;

b. contact the relevant law enforcement agency and pursue criminal proceedings;

c. file a complaint with the British Columbia Human Rights Tribunal, where the matter falls within its jurisdiction;

d. initiate other legal proceedings;

- e. file a complaint of sexual harassment under the University's Human Rights Policy (GP 18); or
- f. convert their Disclosure into a Report pursuant to section 8.5.b of this policy, with the intention of initiating an internal process as outlined in that section.

- 2.4 Procedures Section 3.6 ***should explicitly state that complainants will not be required to pursue a formal investigation with the IIO if either the complainant or respondent opt out of an Alternative Resolution Process (ARP)***. Unfortunately, this is often not communicated to complainants and students have been required to proceed with a formal investigation despite only requesting an ARP. Section 3.6 must therefore clarify that it is the complainant's choice whether to proceed with an investigation and that an investigator will only be assigned with the consent of the complainant.
- 2.5 An immunity clause should be added to section 1.11 on Prohibited Relationships for those who experience sexual misconduct within such relationships. Banning sexual relationships where there is a supervisory role will not entirely prevent such relationships from occurring. Due to the inherent vulnerability of these relationships, already recognized by SC17, survivors will face significant barriers disclosing and reporting and the policy should not add the additional barrier of fearing repercussions for being in a prohibited relationship. Without an immunity clause, many survivors of relationship violence will choose not to disclose, significantly limiting their choice of support and reporting options.
- 2.6 Section 7 should outline appeal processes for both complainants and respondents to provide equal access to an appeal. *Courage to Act* states that: "Appeal processes should be clear and unequivocal for staff, faculty, and students. Policies should address whether a student, staff, or faculty member has the right to appeal the findings in an investigation report, an adjudicative decision, or both."⁶ The policy should additionally include possible bases of appeal, such as new evidence, procedural errors or the appropriateness of a sanction. Currently, student complainants do not have access to the same appeal options as student respondents and faculty and staff members, and

⁶ *Supra* note 4, at 139.

this is inconsistent with a survivor-centric approach that maximizes survivors' choices.

3. Safety Planning and Interim Safety Measures

The AMS SASC is pleased to see the addition of interim safety measures. However, it does not believe that the addition goes far enough to protect survivors from retaliation and the possibility of psychological, emotional and physical harm. The proposed amendments to SC17 only provide for interim safety measures where the behaviour would fall under the At-Risk Behaviour policy. Unfortunately, the At-Risk Behaviour policy creates a definition of at-risk behaviour that will not protect survivors in all circumstances. For example, the Policy has regularly been interpreted to refer only to physical safety and does not explicitly include risk to psychological safety. The AMS is submitting a separate submission on the At-Risk Behaviour policy, which we encourage the Committee to review given their overlapping impact on sexual violence response. However, the AMS SASC recommends that the following be incorporated directly into SC17:

- 3.1 Include interim safety measures directly in SC17 without requiring a report to the IIO. Requiring that survivors report first to the IIO, which is then referred to the At-Risk Behaviour policy creates additional bureaucratic steps and unnecessary barriers to safety. This bureaucratic cascade also increases the number of offices and individuals with access to survivor's personal information. There are numerous other PSI Sexual violence policies that UBC could look to as examples for how to incorporate interim safety measures directly into the policy:
 - Section 42 of Concordia University's [Policy Regarding Sexual Violence](#) guarantees that all services, including interim safety measures, are available to students regardless of a decision to report. Sections 18-19 further outline examples of interim measures that might be available to both students and employees.
 - Sections 55-56 in the University of Toronto's [Policy on Sexual Violence and Sexual Harassment](#), similarly outlines examples of available interim conditions and measures and clearly indicates the office responsible for coordinating the implementation of these measures.
 - Section 7.3 of Memorial University of Newfoundland's [Sexual Harassment and Sexual Assault Policy](#) explicitly states that an

accused student's failure to comply with interim conditions may be relevant to an investigation.

- 3.2 Clarify which UBC unit will ultimately hold responsibility for the implementation and monitoring of interim safety measures. ***Unfortunately, the AMS SASC has regularly seen various UBC units refer back to each other. This deflects responsibility for implementing much-needed safety measures related to threats, retaliation, intimate partner violence, and harassment and stalking, both online and in person.***
- 3.3 Specify that coordinating interim safety measures may require the creation of a response coordination team. As the SVPRO does not have authority to implement measures such as temporary interim restrictions, it must be made clear to survivors that the SVPRO will need to consult and coordinate with other UBC units and that a coordinating team may be assembled for some safety measures. As will be discussed further below, trauma-informed principles require transparency on who has access to survivors' personal information, how much information will be shared, and for what purpose.

4. Confidentiality and Information Sharing Practices between UBC Units

Students, and particularly survivors of sexual violence, should have control over how their information is circulated between units at the university, as well as between the university and external organizations. As currently drafted, the revised SC17 does not address the breaches of confidentiality and privacy that the AMS SASC sees regularly while supporting survivors of sexualized violence at UBC. Unfortunately, in the AMS SASC's experience, these breaches are the norm and not an anomaly. However, no effort has been made in the revised policy to improve transparency and clarity on how survivors' confidential and private information will be shared among UBC units. The policy ***must be transparent on when, with who, and what information will be shared*** with campus units so that students are aware of how their confidential information is circulated within the university. The AMS SASC makes the following recommendations:

- 4.1 Section 8.3 of the policy should ***require notifying students of how their personal information will be shared between units.*** The AMS SASC meets regularly with students who indicate they were unaware that in order to

acquire support services listed in the policy, numerous individuals in academic advising units, student residences, or others across campus would be notified. The survivor did not have an opportunity to indicate if there were conflicts of interest or other concerns regarding how and with who their information would be shared.

- 4.2 Section 8.3 should indicate that ***personal information will only be shared with students' consent and that the least amount of personal information as possible will be shared.*** For example, it is not necessary for details of the disclosure to be shared in order to receive an academic concession. Clarifying how much information will be shared will also contribute towards SC17's stated goal of removing barriers for disclosure. Students will be more willing to disclose if they clearly understand what will happen with their personal information.
- 4.3 All staff or faculty who may receive disclosures, provide services offered by the policy, or who participate in investigation and disciplinary decisions should be ***required to complete trauma-informed approaches training.*** The report *Courage to Act* similarly recommends mandatory training for staff and faculty, modelling Quebec's Bill 151, *Act to prevent and fight sexual violence in higher education institutions*. Mandatory training will ensure that there is a shared understanding of the importance of confidentiality and providing survivors with agency and control over their stories and experiences. Otherwise, the promise of a trauma-informed approach is an empty one and can set survivors up for re-traumatization and disappointment when their personal information is circulated without their consent.
- 4.4 Section 8.4 provides inadequate guidance to UBC community members on the confidentiality of a disclosure. ***It should be explicitly clear that UBC Community Members must keep disclosures confidential, unless the survivor requests an individual to make a third-party report or circumstances related to section 8.5 arise.*** Since other UBC policies rely on a 'need to know' basis of information sharing, it is often inappropriately assumed that sexual violence disclosures follow the same policy. The current practice of 'need to know' permits university faculty and staff to use their - often untrained - discretion to share sensitive and personal information related to trauma, abuse and sexual violence. Without clear confidentiality guidelines to the contrary, the SASC often sees UBC community members circulate survivors' personal information without their consent or even consultation. ***The vagueness in the current policy obfuscates how privacy***

will be addressed at the expense of survivors, while ultimately maintaining UBC's power and control over information and liability.

4.5 Section 8.6 outlines the possibility of an institutional report, which is an unnecessary intrusion on survivors' choice, agency, and privacy. The AMS SASC has significant concerns about asking a confidential support office to report without survivors' consent, even if any subsequent investigation does not require their involvement. Where there is a risk of harm to self, harm to others or harm to a child, both legislation and jurisprudence establish legal reporting requirements, such as in the *Child, Family and Community Service Act*, and other reporting obligations for health and safety reasons.⁷ ***Outside of these limited situations, it is neither trauma-informed or survivor-centric to report. Expectations of confidentiality are central to creating a safe environment where survivors can disclose and seek support.*** The harms associated with requiring a confidential advocate or support office to report without survivor's consent have been well established in research throughout Canada and the United States.⁸ The safety of the UBC community can be assured without compromising confidentiality of the SVPRO. This can be achieved through the use of interim safety measures requested by survivors (discussed above), or a third-party report, with the informed consent of the survivor.

⁷ [Privacy Act](#), [Personal Information Protection Act](#); see also [EVABC's Records Management Guidelines](#) on the limitations to the duty to protect confidentiality, at 45, and the BC Association of Clinical Counsellors Legal [Commentary: How Private is Private? A Detailed Consideration of a Clinical Counsellor's Legal Duty of Confidentiality and the exceptions Created by the Duties to Report or Warn](#).

⁸ See, for example, EVA BC, *supra* note 1, at 32; Brubaker & Mancini (2017), The Impact of Increased State Regulation of Campus Sexual Assault Practices: Perspectives of Campus Personnel, *Journal of School Violence* 16:3.; Weiss & Vasky (2017) Mandatory Reporting of Sexual Misconduct at College: A Critical Perspective, *Journal of School Violence* 16:3.