



Policy Number	3.6.3
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3.6.3 SEXUAL AND GENDER-BASED VIOLENCE AND MISCONDUCT PROCEDURES FOR MEMBERS OF THE BOARD OF GOVERNORS

ENABLING LEGISLATION + LINKED POLICIES

3.6 Sexual and Gender-based Violence and Misconduct Policy (the “Policy”)

Please refer to this Policy for Definitions.

3.6.1 Sexual and Gender-based Violence + Misconduct Procedures for Students

3.6.2 Sexual and Gender-based Violence + Misconduct Procedures for Employees and Non-Students

4.6 Student Conduct Policy

8.6 Harassment, Bullying + Discrimination Policy

ECUAD Board of Governors Bylaws

University Act

OBJECTIVE

These Procedures intend to address allegations under the Policy involving Board Members who have been appointed by the Provincial government. Allegations involving elected Board Members will be dealt with under the applicable Procedures for Students or for Employees and Non-Students. These Procedures identify the key resources and supports available following Disclosure, with regard to Reporting and investigation when an individual is affected directly or indirectly by Sexual and Gender-based Violence and Misconduct. For employee complaints involving sexual harassment only, Human Resources may determine that these should be addressed under 8.6 Harassment, Bullying + Discrimination Policy.

PROCEDURES FOR SURVIVORS/VICTIMS WHO DISCLOSE OR REPORT SEXUAL AND GENDER-BASED VIOLENCE AND MISCONDUCT

The University recognizes that Sexual and Gender-based Violence and Misconduct can have a traumatic effect on the Survivor/Victim. The University is committed to treating Survivors/Victims with dignity, respect and sensitivity, and will provide appropriate supports in a timely manner.

1. DISCLOSE AND SEEK SUPPORT

- For information on Disclosures by student members of the Emily Carr University community, please see 3.6.1 Sexual and Gender-based Violence and Misconduct Procedures for Students.
- For information on Disclosures by employees and non-students, please see 3.6.2 Sexual and Gender-based Violence and Misconduct Procedures for Employees and Non-Students.
- For Disclosures by members of the Board of Governors, individuals should contact the Associate Vice President (AVP) Human Resources and/or the Board Chair. The AVP Human Resources or the Board Chair will be able to provide a Survivor/Victim with information regarding available support, including referrals to community services.

Disclosing Sexual and Gender-based Violence and Misconduct in order to access support and appropriate accommodations does not automatically initiate a Report or an investigation by the University. An individual has a choice as to whether and how to make a Report.

2. OPTIONS FOR REPORTING

There are 3 options for Reporting: making a **Report to the University**, making a **Criminal Report**, or making a **Third-Party Report**.

The Survivor/Victim will be the final decision-maker regarding their own interests. The University is committed to respecting the decisions of the Survivor/Victim unless their safety or that of the greater University Community is at risk and/or where the University has a legal obligation to act. In these circumstances, the University reserves the right to initiate an investigation or to report the incident to the appropriate authorities.

Confidentiality in the Reporting Process

Reports of Sexual and Gender-based Violence and Misconduct involve the investigation, disclosure and collection of sensitive personal information about the Survivor/Victim and the

Respondent. While discretion will be exercised to the maximum degree possible to protect the reputations and interests of all individuals, strict confidentiality during Reporting may not be feasible, as in cases where there is a perceived risk to the safety of self, others, or the greater University community, or where there is a legal obligation to act.

All parties involved in a Sexual and Gender-based Violence and Misconduct investigation are expected to keep all information pertaining to the investigation confidential other than to seek representation, counselling or to share it in the course of the investigation with an appointed investigator.

In the case of a Respondent who is a University employee, confidentiality will be managed within the context of an investigation that the University may be required to conduct in order to meet its legal obligations or obligations set out in applicable collective agreements.

Option 1: REPORT TO THE UNIVERSITY

A Report to the University is made to seek action on the part of the University, in the form of an investigation. When making a Report against a Board member, the Survivor/Victim must contact the University's AVP Human Resources or the Board Chair to access support services.

The AVP Human Resources can be reached by calling 604-844-3824 or emailing hr@ecuad.ca. The Board Chair can be reached via the University Secretary at 604-844-3890 or emailing usecretary@ecuad.ca.

Once a Report has been filed, the University will take the following steps:

Information Gathering

The University will immediately appoint an external independent investigator who will review the Report and determine whether the allegations fall within the scope of the Policy and whether the Policy has been breached. This will inform any further actions to be taken by the University.

The University may impose or facilitate interim measures on either the Survivor/Victim or the Respondent, whether student or employee or non-student, pending the conclusion of an investigation into a Report.

Depending on the circumstances, interim responses to a Report may include, but are not limited to the following measures:

- “No contact” undertaking with the Respondent, on-or-off campus safety planning, and/or other accommodations.
- Campus Security may impose or facilitate interim measures to restrict access to some University facilities by the Respondent where the University determines there may be a safety risk.

Investigations

All investigations under the Policy involving employees will be conducted in accordance with any applicable processes set out in applicable collective agreements.

Investigations carried out by the external investigator will observe the following conditions:

- The University will ensure that any investigator engaged to investigate complaints of Sexual and Gender-based Violence and Misconduct must have appropriate training in understanding and investigating Sexual and Gender-based Violence and Misconduct.
- The findings of the investigator will be shared with the Survivor/Victim and the Respondent.
- The investigation may not be able to proceed if the Survivor/Victim is no longer a member of the University Community, unless it is determined that the University is required by law to conduct an investigation.
- At any time, a Survivor/Victim may withdraw from an investigation by making a formal request to the AVP Human Resources and/or the Board Chair through the external investigator and/or legal counsel. The University may be required by law to proceed with the investigation.
- If the Survivor/Victim or the Respondent refuses to cooperate with the investigator, the investigator will proceed with the investigation and may make a recommendation regarding further action. The University has the discretion to determine the next steps, based on the findings of the investigator and consideration of any legal obligations on the part of the University.
- Upon suspension or cessation of an investigation, all parties will be notified.
- The investigator will establish an investigation process based on conditions outlined by

the University in accordance with the Policy. The investigator is therefore responsible for interpreting the provisions of the Policy. The investigator has the discretion to develop their own procedures and practices to conduct the investigation, subject to compliance with the Principles of Procedural Fairness.

- Investigations will:
 - be undertaken promptly and diligently and be thorough;
 - be fair and impartial, providing both the Survivor/Victim and Respondent equal treatment in evaluating the allegations;
 - be sensitive to the interests of all parties involved;
 - be focused on finding facts and evidence, including interviews of the Survivor/Victim, Respondent and any witnesses; and reviewing any documents they consider relevant; and,
 - incorporate, where appropriate, any need or request from the Survivor/Victim or Respondent for assistance during the investigation process.

- After completion of the investigation, the investigator will prepare a confidential written report setting out:
 - the evidence considered and the investigator's findings of fact regarding the allegations;
 - the investigator's determination as to whether or not there has been a violation of the Policy; and,
 - any mitigating or aggravating circumstances to be considered.

- The investigator's report will be kept confidential and will not be disclosed to the parties, except where required by applicable collective agreement provisions or by law. In the event that the report is required to be disclosed, measures will be taken to protect the privacy and confidentiality of personal information of the parties contained in the report to the extent reasonably possible, in accordance with applicable privacy legislation.

- If the investigator finds that a violation of the Policy has not occurred, the AVP Human Resources and Board Chair will dismiss the complaint and ensure that a written record of resolution be prepared, which will be provided to the Survivor/Victim and the Respondent.

Remedial Actions and Sanctions

- Where an investigation results in a finding that there was a breach of the Policy, only information that is necessary to make a decision regarding remedial actions or sanctions will be shared with the AVP Human Resources and the Board Chair. Further action from the University will be determined by the Board through the Board's Human Resources + Executive Committee.

- Where an investigation finds that a Report was made in Bad Faith, the appropriate Executive leader or the Board may take appropriate action, up to and including discipline or termination of employment where the Complainant is an employee. Where the Complainant is a student, sanctions will be considered in line with 4.6 Student Conduct Policy. Where the Complainant is a Board member, sanctions will be considered in line with the University's Board Bylaws and the University Act.

Option 2: CRIMINAL REPORT

Any Member of the University Community may at any point contact the Vancouver Police Department, or other law enforcement agency, for information related to the investigative process, filing a complaint, and/or pressing criminal charges. The University will provide support to the individual complainant in facilitating a Criminal Report and will cooperate with any criminal investigation, but the University's own investigation process may be impacted or suspended by any criminal investigations or proceedings.

Option 3: THIRD PARTY REPORT

An individual may choose to make an anonymous Report to the police without making an official statement. A Third Party Report must be submitted through a community-based support worker. This type of Report does not launch an official police investigation but it can help in identifying repeat Respondents. Contact Women Against Violence Against Women (WAVAW) at 604-255-6344 for support filing a Third Party Report.