

## 1. POLICY STATEMENT

Banff Centre is committed to promoting and maintaining a campus, virtual and in person, that is free from all forms of Gender-Based or Sexual Violence, supporting equitable relations, and fostering a community founded upon the fundamental dignity and worth of all individuals. Banff Centre recognizes that Gender-Based or Sexual Violence affects all people and is committed to providing support for all Members of the Banff Centre Community who have been impacted by Gender-Based and Sexual Violence and to addressing Gender-Based and Sexual Violence through Trauma-Informed and reduction of harm practices. It is the responsibility of all Members of the Banff Centre Community to promote an environment that is free of Gender-Based or Sexual Violence and to be knowledgeable about this policy and associated procedures. Banff Centre will approach Gender-Based and Sexual Violence with an intersectional, anti-oppression and decolonizing lens.

## 2. PURPOSE

Banff Centre recognizes that efforts to foster equity and safety along the lines of sex, gender identity, gender expression, race, ethnicity, cultural identity, sexuality, ability, socio-economic status, spirituality, and religion are the best tools for eliminating Gender-Based or Sexual Violence. Banff Centre's strategies to address Gender-Based or Sexual Violence must be linked to broader equity and anti-discrimination initiatives and goals. This policy communicates Banff Centre's commitment to these goals and establishes the principles and procedures that support this commitment. This policy outlines the provision of support for Members of the Banff Centre Community impacted by Gender-Based or Sexual Violence and informs Members of Banff Centre about behavioural expectations so that incidents of Gender-Based or Sexual Violence are addressed with procedural fairness, are trauma-informed, and are undertaken with the intention to reduce harm for all parties.

## 3. APPLICABILITY

3.1. This policy applies to risks, threats and incidents of Gender-Based and Sexual Violence that involve Members of the Banff Centre Community and:

3.1.1. occur on Banff Centre premises and other work, study, social, recreational and living sites under Banff Centre's control;

3.1.2. during the course of any Banff Centre sponsored event or activity;

3.1.3. in virtual environments such as videoconferencing, phone and text communication, email or any other electronic or social media under Banff Centre's control; and/or

3.1.4. occur beyond Banff Centre's premises, but where the conduct of the

persons involved have an identifiable and substantial link to Banff Centre, or the occurrence affects the Banff Centre working, learning, creating, participating, performing or living environment.

#### **4. INTERPRETATION**

4.1. This Policy must be read and interpreted within the context of:

4.1.1. the purpose of this Policy as articulated in Section 2, above;

4.1.2. other relevant Banff Centre policies and procedures in force from time to time;

4.1.3. other relevant rules, orders, regulations, and/or federal or provincial legislation applicable to Banff Centre and in force from time to time; and

4.1.4. any applicable Collective Agreement, Terms of Employment Governing Management and Program, Supervisory and Professional Employees, or legal obligation owed to an employee pursuant to an employment contract.

#### **5. POLICY ELEMENTS**

##### **5.1. General Prohibitions and Responsibilities**

5.1.1. No person, while on Banff Centre premises, participating in a Banff Centre related event (whether in person or virtual, on or off Banff Centre premises), or acting as a Member of the Banff Centre Community, may engage in any form of Gender-Based or Sexual Violence against another person.

5.1.2. Banff Centre will take measures aimed at promoting a Banff Centre Community environment that is free from Gender-Based or Sexual Violence and at challenging the attitudes, beliefs, norms, and practices associated with Rape Culture.

5.1.3. Banff Centre will take action to prevent Gender-Based or Sexual Violence through education and communications and to promote the safety, well-being, and human rights of all Members of the Banff Centre Community so that all Members can create, learn, innovate and work free from Gender-Based or Sexual Violence.

5.1.4. Members of Banff Community who experience Gender-Based or Sexual Violence are supported and treated with compassion. Respondents are also treated fairly through a consistent process that provides equal opportunity to reply to the allegations. All processes shall be procedurally fair, based on Trauma-

Informed practice and include harm reduction measures for both the complainant and respondent.

5.1.5. Members of the Gender-Based or Sexual Violence Response Team will be provided the resources to support secondary trauma as may be required.

## **5.2. Support Services and Modifications**

5.2.1. Banff Centre will treat all Complainants, Reporters and Respondents fairly and in accordance with this Policy.

5.2.2. All Members of the Banff Centre Community who are impacted by Gender-Based or Sexual Violence are entitled to access available Banff Centre-provided support services, regardless of whether or not the Survivor files a Complaint. The type and level of support will depend upon availability of resources and can include providing referrals for access to counselling, medical care, safety planning, Modifications, support from the human resources department, and accessing additional community services.

5.2.3. Survivors, Complainants, Reporters, and Respondents who are not Members of the Banff Centre Community will be provided referrals to external counselling, medical care, and other services where appropriate.

5.2.4. Banff Centre will, to the extent possible, prevent further unwanted contact between Complainants and Respondents.

5.2.5. Banff Centre may impose interim measures or modifications of the workplace, learning or living environment or campus life to support the Survivor, Complainant, Reporter, and/or Respondent during an investigation including, but not limited to: determining that there is to be no contact between a Complainant and a Respondent; reassigning the Complainant or Respondent to a more suitable workplace, or supervisor, as a temporary measure; offering the Survivor, Complainant, or Respondent, a leave of absence; or suspending the Survivor, Complainant or Respondent from a program or event, the work place, or accommodation (as the case may be), pending the conclusion of an investigation.

## **5.3. Education and Prevention**

5.3.1. Banff Centre is committed to supporting ongoing education and awareness initiatives for Members of the Banff Centre Community about Gender-Based Violence, Gender-Based or Sexual Violence prevention and responding to Disclosures and Complaints of Gender-Based Sexual Violence. The Banff Centre will implement preventative strategies with respect to all forms of Gender-Based or

Sexual Violence. These strategies will be Anti-Oppressive and linked to Banff Centre's broader equity and anti-discrimination initiatives and goals.

5.3.2. All Members of the Banff Centre Community are responsible for contributing to the prevention of, intervention in, and effective response to, Gender-Based or Sexual Violence through compliance with this policy and associated procedures.

#### **5.4. Responding to Gender-Based or Sexual Violence**

5.4.1. Banff Centre will establish procedures to respond to incidents of Gender-Based or Sexual Violence and to support Survivors, Complainants, Reporters, Respondents and First-Responders which are set out in the Gender-Based and Sexual Violence Procedure.

5.4.2. Banff Centre will provide Members of the Banff Centre Community with information and training on the role of a First Responder to ensure that Survivors receive appropriate support and information when making a Disclosure of Gender-Based or Sexual Violence.

5.4.3. Banff Centre will provide those who have experienced Gender-Based or Sexual Violence, or those who wish to explore their options for reporting Gender-Based or Sexual Violence, with comprehensive information about Disclosure and Complaint options.

5.4.4. Under the leadership of the Vice President, Talent Management and Culture, a Gender-Based or Sexual Violence Response Team will be established which will be responsible for overseeing Banff Centre's response to Gender-Based or Sexual Violence.

5.4.5. Banff Centre will handle Complaints and investigations in a procedural fairness, trauma-informed practice, and will take intentional steps to reduce harm for all parties.

#### **5.5. Breaches of Policy**

5.5.1. The standard of proof for the finding of a breach of this policy is on a balance of probabilities.

5.5.2. Any Member of the Banff Centre Community who is found to have breached this policy will be held accountable and subject to sanctions and discipline.

## 5.6. Confidentiality

5.6.1. All representatives of Banff Centre involved in responding to a Disclosure, Complaint and/or investigation of Gender-Based or Sexual Violence are expected to maintain confidentiality of information as required by law and Banff Centre policy, and where otherwise appropriate. Banff Centre treats Disclosures and Complaints as confidential, subject to the following limitations:

5.6.1.1 When an individual is believed to be at imminent risk of self-harm;

5.6.1.2 When there are reasonable grounds to believe that a Member of the Banff Centre Community or wider community may be at risk of harm;

5.6.1.3 In order to promote fairness of process for all parties;

5.6.1.4 Evidence of the alleged Gender-Based or Sexual Violence is already available in the public realm; and/or

5.6.1.5 Disclosure of information, reporting and/or conducting an investigation is required by law, by Banff Centre's policies, or by an external body with appropriate authority.

5.6.2. Confidentiality is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* (Alberta) ("FOIP") and other applicable legislation.

## 5.7. Barriers to Disclosing

5.7.1. In order to remove barriers to making a Disclosure or Complaint under this policy, a Survivor, Complainant or person making a Disclosure will not be subject to disciplinary action for their own prohibited alcohol or substance use connected with the incident(s) of Gender-Based or Sexual Violence.

## 5.8. Retaliation and Good-Faith Complaints

5.8.1. It is contrary to this policy for anyone to Retaliate, or threaten to Retaliate against a Complainant, Reporter, Respondent, Bystander or any other person.

5.8.2. Any Member of the Banff Centre Community who undertakes, participates in, or directs a Retaliation may be subject to disciplinary action under any applicable policy or the Collective Agreement.

5.8.3. All Disclosures and Complaints must be in good faith. Disclosures or Complaints that are found to be in bad faith including, but not limited to, those that

are made to purposely annoy, embarrass, or harm a Member of the Banff Centre Community or are reasonably considered to be frivolous or vexatious, may result in disciplinary action. Disciplinary action will not apply where a Complaint has been made in good faith but cannot be substantiated.

## 5.9. Information Tracking and Retention of Records

5.9.1. Banff Centre will maintain records related to Complaints including, without limitation, the number of Complaints, the number and results of investigations and the corresponding actions taken in response to recommendations arising out of investigations. These records shall be used to provide periodic reports to the Board of Governors of the Banff Centre and to evaluate current education, training and awareness efforts. Under no circumstances will the statistical use of Complaint information include personal information.

5.9.2. The human resources department is responsible for maintaining records related to Complaints including, without limitation, investigation reports and any alternative resolution process reports. Subject to any records retention obligations under Banff Centre policy, the Collective Agreement or applicable law, records related to discipline or sanctions arising out of Complaints will be maintained by the human resources department.

5.9.3. All records involving a Survivor, Complainant and subsequent investigation of Complaints, but not including records related to discipline or sanctions arising out of Complaints, will be kept in confidential and secure files, separate from a participant, faculty or employee's information file; however, all such records may be used for purposes of further disciplinary process. All records will be subject to any records retention obligations under Banff Centre's record retention rules and related procedures, the Collective Agreement, Banff Centre's policies and any applicable law.

5.9.4. Prior to an employment offer, Gender-Based and Sexual Violence records will be reviewed to ensure that any member of the Banff Centre Community who is found to have committed Gender-Based or Sexual Violence and whose employment was terminated, will not be re-hired. To maintain confidentiality, the record review will only be conducted by designated staff within the human resources department.

5.9.5. Prior to an offer for a participant to attend a Banff Centre program, Gender-Based and Sexual Violence records will be reviewed to ensure that any participant of the Banff Centre who is found to have committed Gender-Based or Sexual Violence will not be offered a space in a Banff Centre program. To maintain confidentiality, the record review will only be conducted by designated staff within the human resources department.

5.9.6. Prior to a contract offer for faculty, guest speaker, artist or fee for service contracts, Gender-Based and Sexual Violence records will be reviewed to ensure whoever is found to have committed Gender-Based or Sexual Violence will not be offered a contract with Banff Centre. To maintain confidentiality, the record review will only be conducted by designated staff within the human resources department.

## 6. DEFINITIONS

**Anti-Oppressive.** Anti-Oppressive practice seeks to recognize oppression – the socially supported system of mistreatment and exploitation of a group of individuals – that exists in our society and attempts to mitigate its effects and equalize power imbalances in our communities.

**Banff Centre Community.** Includes those persons involved in or associated with, Banff Centre or its affairs including all artists, contractors, consultants, employees, faculty, participants, volunteers, members of the Board of Governors, and members of the Board of Directors of The Banff Centre Foundation, while they are: on or using Banff Centre property; participating in Banff Centre programs, events or activities (whether virtual or in person); or acting on behalf of Banff Centre.

**Bystander.** A person who observes an incident of Gender-Based or Sexual Violence taking place.

**Coercion.** Within the context of Gender-Based or Sexual Violence, coercion is an unreasonable and persistent pressure for sexual activity. Coercion can be through emotional manipulation, blackmail, threats to family, pets or friends, or the promise of rewards or special treatment, or to persuade someone to do something that they would otherwise not such as being sexual or performing sexual acts.

**Collective Agreement.** Means the Collective Agreement between Banff Centre and the Canadian Union of Public Employees Local 4318 in force, from time to time.

**Complainant.** A person who files a Complaint against a Respondent.

**Complaint.** A report on Gender-Based or Sexual Violence submitted to the Banff Centre in accordance with this policy and the Gender-Based and Sexual Violence Procedure.

**Consent.** The voluntary agreement to engage in specific sexual activity or behaviour requires that a person is able to freely articulate a choice, which includes the possibility of refusal. This means that there must be an understandable and ongoing exchange of affirmative words or conduct which indicate a willingness to participate in mutually agreed upon sexual activity.

For the purposes of this definition, there cannot be Consent to sexual activity in the following circumstances:

- (a) A person does not communicate yes, or communicates or implies no through their words, body language, and/or behaviour.
- (b) A person is asleep, unconscious, incapacitated, unable to communicate, or otherwise unable to consent.
- (c) A person has been threatened or coerced, such that any agreement is not provided voluntarily, into engaging in the sexual activity.
- (d) A person uses a position of trust, power, or authority to coerce another into sexual activity.
- (e) A person is impaired by alcohol and/or drugs.
- (f) A person withdraws Consent, at any time, before or during any part of the sexual activity.

The fact that Consent was given in the past does not mean that Consent is deemed to exist for present and future sexual activity.

**Disclosure.** When a person chooses to inform a Member of the Banff Centre Community about an incident where they were subjected to Gender-Based or Sexual Violence. A Disclosure is not necessarily a Complaint and will not trigger an investigation pursuant to the Gender-Based or Sexual Violence Procedure unless Banff Centre becomes aware of a risk to other Members of the Banff Centre Community.

**First-Responder.** An individual to whom a Survivor initially discloses. This could be any Member of the Banff Centre Community.

**Gender-Based Violence.** Any abuse, assault or harassment directed towards or against someone due to their gender expression, gender identity or perceived gender that can be drawn back to dominant societal norms surrounding gender. Gender-based violence is more broad than Sexual Violence and can include sexual, physical, mental and economic harm inflicted in public or in private and may include threats of violence, coercion and manipulation.

**Interim Measures.** Non-disciplinary actions taken during an investigation or proceeding in accordance with processes outlined in a collective agreement, if applicable, to ensure the safety of the Survivor, Complainant or of the Banff Centre's learning, working and residence environment, to discourage or prevent retaliation, and preserve the Banff Centre's ability to



conduct a thorough investigation. Interim Measures may include no contact between a Survivor, Complainant and a Respondent, and/or that the Respondent be removed from program, the workplace or residence pending the conclusion of an investigation.

**Members of the Banff Centre Community.** Those persons involved in conducting Banff Centre affairs including all registered participants, faculty, employees, volunteers, contractors, Directors and Governors.

**Modification.** Making reasonable changes to certain rules, standards, policies, workplace cultures and physical environments to ensure that they do not have a negative effect on a person involved in a Disclosure or Complaint of Gender-Based or Sexual Violence. These changes may include Interim Measures while an investigation is ongoing.

**Primary Contact.** A representative of the Banff Centre appointed to Survivors, Complainants, Respondents, Reporters, and other persons involved in a Complaint or investigation process. The primary contact(s) will provide information to such persons, facilitate access to resources and services, coordinate and respond to communications from and to the Banff Centre and external entities (including without limiting, police, programming areas and health care providers), and otherwise provide support to the participants as required under this policy and associated procedures.

**Rape Culture.** A culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone Sexual Violence by normalizing or trivializing Sexual Violence and by blaming Survivors for the abuse to which they have been subjected.

**Reporter.** An individual who files a Complaint, but who is neither a Survivor nor Respondent.

**Respondent.** A Member of the Banff Centre Community against whom a Complaint has been filed in accordance with this policy and associated procedures.

**Retaliation.** Taking, threatening or attempting to take any adverse action against a Member of the Banff Centre Community because that person has made a Disclosure or filed a Complaint, supported a Disclosure or filing of a Complaint, disclosed information to the Banff Centre about a Disclosure or Complaint, participated in an investigation of a Disclosure or Complaint, or pursued their rights under this policy or applicable legislation. Retaliation includes, but is not limited to, social aggression and physical and psychological violence.

**Sexual Assault.** Any sexual contact without Consent, which can include but is not limited to forced oral contact, forced groping or fondling, forced vaginal or anal penetration, and forced oral to genitalia contact. The behaviour need not be intentional in order to be considered Sexual Assault.

**Sexual Discrimination.** Discrimination based on sex, gender, sexual orientation, gender

expression or gender identity as set out and defined in the Alberta Human Rights Act.

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

- (a) Such conduct has the purpose or effect of interfering with an employee's work performance or a participant's experience in a program, or creating an intimidating, hostile, or offensive working, learning or living environment.
- (b) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, or of the teaching and learning process; or
- (c) Submission to or rejection of such conduct is used in employment or program participation decisions affecting that employee or participant.

Examples of sexually harassing behaviours include but are not limited to comments or conduct of a sexual nature such as leering, dirty jokes, gestures, exposure to pornographic pictures or materials, unwanted comments, suggestions, innuendos, requests or demands of a sexual nature. The behaviour need not be intentional in order to be considered Sexual Harassment.

**Sexual Violence.** Any act targeting a person's sexuality that is committed, threatened, or attempted against a person without that person's Consent. Sexual Violence varies in severity, can be physical or psychological in nature, and may include but is not limited to all forms of sexual contact, sexual humiliation, sexual exploitation, degrading sexual imagery, sending unwanted sexualized text messages, cyber harassment, indecent or sexualized exposure via electronic or social media or otherwise, Sexual Harassment, Sexual Discrimination, Stalking, and Sexual Assault.

**Sexual Violence Response Team.** The group of Banff Centre employees led by the Vice President, Talent Management and Culture, and tasked with the responsibility of overseeing the Banff Centre's response to Gender-Based or Sexual Violence.

**Stalking.** A form of criminal harassment prohibited by the Criminal Code of Canada involving persistent, unwanted communication and/or behaviours that collectively instill fear for the victim/target's safety or mental health.

**Survivor.** A Member of the Banff Centre Community who has experienced Gender-Based or Sexual Violence and who may or may not file a Complaint.

**Terms of Employment Governing Management and Program, Supervisory and Professional Employees.** Refers to the Terms of Employment Governing Management and Program,

Supervisory and Professional Employees in force from time to time.

**Trauma-Informed.** Practices or approaches that recognize traumatic life experiences, including intergenerational trauma, can create significant change and turmoil within a person and in their life, and are complex and far reaching, leading to various consequences to mental health, stability, and well-being.

**7. ASSOCIATED POLICY / PROCEDURE**

- Gender-Based and Sexual Violence Procedure

**8. RELATED POLICIES, FORMS, AND OTHER DOCUMENTS**

- Violence and Harassment Policy and Procedure
- Code of Conduct (Board; Employee; and Participants)
- Health and Safety Policy
- Ethical Conduct and Safe Disclosure Policy and Procedures

**9. APPROVAL AUTHORITY**

Board of Governors

**10. ACCOUNTABILITY**

Vice President, Talent Management and Culture

**11. POLICY HISTORY**

- 11.1. Approved: **February 16, 2018**
- 11.2. Effective: **February 16, 2018**
- 11.3. Most Recent Review / Revision: **November 30, 2023**
- 11.4. Review Frequency: **Three (3) Years**
- 11.5. Next Review: **November 2026**

**11.6. Modification History**

Date	Modification
November 25, 2022	New policy title <i>Gender-Based or Sexual Violence Policy</i> . Approved by Board Motion November 25, 2022.
	Replaces the <i>Prevention of and Response to Sexual Violence Policy</i> and related procedures.
November 30, 2023	Revised following feedback from Advanced Education.
	Replaces the previous version of the <i>Gender-Based or Sexual Violence Policy</i> .