

Category	Human Resources
Type	Policy
Title	Policy - Prevention of, and Response to Sexual Violence
Approval Authority	Board of Governors
Implementation Authority	Vice President, Human Resources
Related Policy	Anti-Harassment Code of Ethics Information Security Privacy Policy Safe Disclosure Unlawful Activity Policy Workplace Violence Policy
Related Procedure(s)	Anti-Harassment Information Security – Incident Response Plan Information Security – Storage and Distribution Safe Disclosure (General Disclosures) Safe Disclosure (Serious Wrongdoing) Unlawful Activity Workplace Violence
Related Additional Information	Serious Wrongdoing (FAQs)
Original Approval Date	16/02/2018
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Most Recent Revision Date	16/02/2018
Next Review Date	16/02/2021

PURPOSE

The purposes of this Policy are:

- to affirm Banff Centre’s commitment to a respectful, safe and healthy campus for work, for learning, for creativity, for innovation, for study, and for campus community life;
- to provide information about Banff Centre’s processes for responding to **Complaints** and incidents of Sexual Violence; and
- to promote a **Banff Centre Community** that is free of Sexual Violence.

SCOPE

This Policy applies to all members of **Banff Centre Community**, when they are involved in the Banff Centre’s business and activities irrespective of whether their involvement is either (i) while

they are physically present during Banff Centre business; (ii) or while interacting through social or other electronic media. It applies to any setting where Banff Centre learning, artistry, leadership, work, and/or other activities take place, whether in the classroom, studio, or in other teaching, research, study or non-office work spaces, or office settings, or in connection with performances and production, conferences or hospitality.

This Policy also applies in the event a member of Banff Centre Community experiences Sexual Violence by a non-member that is alleged to have occurred on campus, or at a Banff Centre related event.

POLICY STATEMENT

1) INTERPRETATION

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

- i) the overarching purposes of this Policy (see section entitled “*Purposes*” above);
- ii) other relevant Banff Centre policies and procedures in force from time to time;
- iii) other relevant rules, orders, regulations, and/or federal/provincial legislation applicable to Banff Centre and in force from time to time; and
- iv) 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.

2) BANFF CENTRE GUIDING PRINCIPLES

- a) No member of Banff Centre Community may engage in any form of Sexual Violence against another person. Sexual Violence will not be tolerated.
- b) Banff Centre is committed to creating and maintaining an environment where members of Banff Centre Community are welcome, safe and secure, and where everyone can create, learn, innovate and work free from Sexual Violence.
- c) Banff Centre seeks to prevent Sexual Violence by educating, and responding appropriately when it occurs.
- d) Members of Banff Centre Community who experience 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.
- e) Banff Centre addresses acts of Sexual Violence in Banff Centre Community impartially, fairly and promptly.
- f) Banff Centre will provide or make available to members of the Banff Centre Community education and awareness training on this Policy, and generally on the prevention of Sexual Violence.
- g) From the point of Disclosure through investigation, Banff Centre will protect and respect the rights of the Complainant and **Respondent** until the investigation is complete, subject always to Alberta’s *Freedom of Information and Protection of Privacy Act* (“*FOIP*”).

3) CONFIDENTIALITY

- a) Appropriate procedures for receiving a Disclosure and responding to a Complaint will be followed. Standards of due process and privacy will be followed for anyone who reports, or is involved in, alleged Sexual Violence.
- b) All parties involved in the Sexual Violence response will be informed about the processes in place to safeguard confidentiality and the limits of confidentiality.
- c) The names of the Complainant and Respondent and the circumstances of the incident will not be disclosed by the **Sexual Violence Response Team**, or Banff Centre, to any person, except when necessary for the purpose of investigating and resolving the Complaint in accordance with this Policy and its related procedures, or when taking any related disciplinary measures, or in the circumstances listed in section [3.d] below.
- d) Confidentiality may not be maintained if:
 - i) an individual is judged to be at imminent risk of self-harm;
 - ii) an individual is judged to be at imminent risk of harming another;
 - iii) evidence of the alleged Sexual Violence is already available in the public realm; and/or
 - iv) disclosure, reporting, or action, is required by law, including Alberta's *Freedom of Information and Protection of Privacy Act* ("FOIP").

4) SEXUAL VIOLENCE RESPONSE TEAM

- a) Under the leadership of the Vice President, Human Resources, a Sexual Violence Response Team will be established for overseeing the Banff Centre's response to Complaints, with a view to supporting the Complainant and Respondent, in navigating and understanding on and off-campus support and services, reporting options, processes and resources.
- b) The Sexual Violence Response Team will receive specialized training as prescribed in the *Procedure-Prevention of, and Response to Sexual Violence*. Members conducting investigations shall receive additional specialized complaint investigation training.
- c) The Sexual Violence Response Team will report to the Vice President, Human Resources, who will keep the **Senior Leadership Team** informed of its activities, cognizant of the confidentiality and sensitivity obligations contained in this Policy and the *Procedure-Prevention of, and Response to Sexual Violence*. If the allegations involve the Vice President, Human Resources, the Sexual Violence Response Team will report to the President and CEO.
- d) The principle purposes of the Sexual Violence Response Team will include the following:
 - i) to offer help, support and guidance to any person who has experienced Sexual Violence and anyone who has received a Disclosure;
 - ii) to have primary responsibility for overseeing and navigating Banff Centre's response to a Complaint pursuant to the *Procedure-Prevention of, and Response to Sexual Violence*;

- iii) to receive and consider Complaints and requests for supports, services and accommodation, relating to Sexual Violence from members of the Banff Centre Community;
- iv) to encourage the members of Banff Centre Community, including various departments and administrative units, to work together as a unified Banff Centre, to promote a safe environment for all members of Banff Centre Community;
- v) to promote initiatives and programs established to promote education of the support and services available to members of Banff Centre Community;
- vi) to report annually to the Board of Governors regarding:
 - (1) the effective implementation of this Policy;
 - (2) recommendations for improvement on this Policy and related procedures; and
 - (3) recommendations on additional resources, or other measures Banff Centre may consider, to raise awareness, prevent and respond to Sexual Violence; and,
- vii) to report quarterly to the Board of Governors regarding incidents of Sexual Violence.

5) ESTABLISHMENT OF A PROCEDURE – PREVENTION OF, AND RESPONSE TO, SEXUAL VIOLENCE

- a) Banff Centre will implement this Policy, including a *Procedure-Prevention of, and Response to Sexual Violence*, which will include the following elements regarding Disclosure, reporting, response and investigation:
 - i) **Disclosure:** Banff Centre encourages anyone who alleges Sexual Violence to get help, to access support. Disclosure about a personal experience of Sexual Violence should be made to the Human Resources Division. It is important to know that a Disclosure is not a Complaint and will not trigger an investigation unless Banff Centre becomes aware of a risk to other identifiable members of Banff Centre Community. Banff Centre encourages the individual receiving the Disclosure to access the support of the Human Resources Division for assistance.
 - ii) **Complaint reporting:** Banff Centre will provide information and reporting options to those who allege Sexual Violence or those who wish to make a Complaint. Complaints must be filed with the Human Resources Division. The Complainant will be asked to provide a **Formal Report**.
 - iii) **Responding to Sexual Violence:** Banff Centre will establish procedures to respond to incidents of Sexual Violence and to support Complainants, **Reporters** and Respondents. Banff Centre will respond to Complaints in a fair, effective, and timely manner and encourage the immediate reporting of all incidents of Sexual Violence. Members of Banff Centre Community who become aware of Sexual Violence should refer the individual to the Human Resource Division.
 - iv) **Right to forego or withdraw a Complaint:** A Complainant has the right to forego filing a Complaint, or to withdraw a Complaint at any stage of the response.

However, Banff Centre reserves the right to act or continue to act on a Complaint in order to comply with its obligations under this Policy or to meet its legal obligations, to ensure fairness to other persons, including the Respondent, or if Banff Centre believes that the safety of other members of the Banff Centre Community or the external community is at risk. Banff Centre may initiate an internal investigation, and potentially inform law enforcement authorities, even without the consent of the Complainant, but always in accordance with Alberta's *Freedom of Information and Protection of Privacy Act* ("FOIP").

- v) **Complaint review, investigations and outcomes:** Banff Centre will handle Complaints and investigations in a fair and unbiased manner. When an investigation is held under the *Procedure - Prevention of, and Response to Sexual Violence*, it will be carried out in a manner that respects due process and may include engaging an independent, third-party investigator. Any member of the Banff Centre Community who is found to have committed Sexual Violence will be subject to discipline and potentially termination of employment, or removal from campus. Either party may appeal the decision as per the grievance procedure in the **Collective Agreement** or the appeals process in the **Terms of Employment Governing Management and Program, Supervisory and Professional Employees**, or as per the Participant Code of Conduct, as applicable

- vi) **Anonymous reports:** An anonymous report is an option available to anyone who has experienced, or witnesses, Sexual Violence, or receives a Disclosure. Anonymous reports will be used for information and statistics, pursuant to Section 8, but due to the possibility that anonymous reports may yield insufficient evidence, an anonymous Reporter should be aware that Banff Centre may not be able to carry out a full response and investigation pursuant to the *Procedure -Prevention of, and Response to Sexual Violence*.

6) **SUPPORT SERVICES & INTERIM MEASURES**

- a) Banff Centre will fairly treat, Complainants, Reporters and Respondents and will assist in providing access to counselling, medical care and other supports to the best of its abilities and available resources.
- b) Banff Centre may impose interim measures or modifications of the workplace, learning environment or campus life to support the Complainant, Reporter, and/or Respondent during an investigation. Examples may include: 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; offer the Complainant, or Respondent, a leave of absence; or suspend the Complainant or Respondent from a program or event, the work place, or student or staff residence (as the case may be), pending the conclusion of an investigation.

7) RETALIATION AND FALSE ACCUSATIONS

- a) Under no circumstance will any person who is involved in a good faith **Disclosure** or Complaint be the subject of **Retaliation**, or the threat of Retaliation.
- b) Banff Centre prohibits Retaliation against a **Complainant**, Reporter, Respondent, **Bystander** or any other person for:
 - i) filing, intending to file, or supporting a Complaint in good faith, in accordance with this Policy or the *Procedure - Prevention of, and Response to Sexual Violence*;
 - ii) pursuing rights under this Policy, the process or action; and/or
 - iii) participating, or cooperating, in an investigation under this Policy, the *Procedure - Prevention of, and Response to Sexual Violence*, or as may be carried out by law enforcement professionals.
- c) Any member of Banff Centre Community who undertakes, participates in or directs a Retaliation, or who makes a Complaint of Retaliation in bad faith, may be subject to disciplinary action, up to and including termination of employment, expulsion, or termination of contract.
- d) Disclosure, Complaints or Formal Reports that are made with an ulterior purpose, including to purposely annoy, embarrass, or harm, the Respondent and that are considered frivolous, vexatious, or in bad faith, may result in sanctions against the Complainant or Reporter, as the case may be, and/or disciplinary action, up to and including termination of employment, expulsion, or termination of contract.

8) INFORMATION TRACKING AND RETENTION OF RECORDS

- a) The Human Resources Division 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. This is done for reporting purposes to the Board of Governors, and to identify and recommend training and awareness efforts. Under no circumstances will statistical use of Complaint information include personal information.
- b) The Human Resources Division will maintain all records relating to any discipline, or sanctions, arising out of Complaints relating to employee-Respondents and any faculty, visitor or guest-Respondents.
- c) All records will be kept in confidential and secure files, separate from a student, faculty or employee's information file. All records will be subject to any records retention obligations under Banff Centre's record retention rules, Banff Centre's *Policy – Information Security* and related procedures, the Collective Agreement, Banff Centre's *Policy - Privacy Policy* and any applicable law.
- d) Prior to an employment offer, Sexual Violence records will be reviewed to ensure that any member of the Banff Centre Community who is found to have committed 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 Division.

9) **POLICY REVIEW, AMENDMENTS AND EXCEPTIONS**

- a) The Vice President, Human Resources, is responsible for the review and implementation of this Policy and the *Procedure-Prevention of, and Response to Sexual Violence*. Nothing in the *Procedure-Prevention of, and Response to Sexual Violence* can be contrary to this policy.
- b) This Policy and the *Procedure-Prevention of, and Response to Sexual Violence* will be reviewed at least once every three (3) years, and on an as-needed basis.
- c) Revisions to the Policy and the *Procedure-Prevention of, and Response to Sexual Violence* will be sent for comment to the Office of the Registrar, Banff Centre’s CUPE representative, the Sexual Violence Response Team, the Senior Leadership Team, the Policy Office, and any other stakeholder, as determined by the Vice President, Human Resources, to ensure the provision and consideration of input from a diverse selection of members of Banff Centre Community.
- d) A copy of this Policy as approved and amended shall be posted on Banff Centre’s website.
- e) An exception to this Policy will only be considered by the President and CEO in rare, or in unforeseen, circumstances. No exception may be made to this Policy without the written approval of the President and CEO.

DEFINITIONS

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use.

Defined Term	Meaning
Banff Centre Community	members of Banff Centre Community includes those persons involved in, associated with, the Banff Centre or its affairs including all students, participants, artists, practicum students, employees, volunteers, contractors, consultants, faculty, and members of the Board of Governors, members of the Board of Directors of The Banff Centre Foundation, while they are either on, or using, Banff Centre property, or participating in Banff Centre programs and activities, on, or off, Banff Centre premises.
Bystander	Bystander is an individual who is observing an incident of Sexual Violence taking place.
Coercion	Coercion within the context of Sexual Violence, 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	The Collective Agreement between The Banff Centre and the Canadian Union of Public Employees Local 4318 (in force

	from time to time).
Complainant	The person who brings forward information that a violation of the Policy may have occurred. Within the context of Sexual Violence, it is usually the individual who experienced Sexual Violence.
Complaint	The formal allegation of Sexual Violence submitted to Banff Centre in accordance with this Policy and its related procedures. A Complaint is usually accompanied by a Formal Report, but action may be taken by Banff Centre in the absence of a Formal Report if it is deemed there is a threat of harm.
Consent	The voluntary agreement to engage in the sexual activity in question. It is an active, direct, voluntary, unimpaired and conscious choice and agreement between individuals at the age of consent to engage in physical contact or sexual activity.
Disclosure	Disclosure is when an individual shares information about a personal experience of Sexual Violence to someone who did not previously know. It is important to know that a Disclosure is not a Formal Report and will not trigger an investigation unless Banff Centre becomes aware of a risk to other members of the Banff Centre Community.
Formal Report	A written statement given to Banff Centre by a Complainant, usually provided to the Sexual Violence Response Team after a Complaint has been received. A Formal Report provides the information, in as much detail as possible, about the incident(s) of Sexual Violence and greatly assists the Sexual Violence Response Team and potentially an investigator in responding to a Complaint.
Terms of Employment Governing Management and Program, Supervisory and Professional Employees	The Terms of Employment Governing Management and Program, Supervisory and Professional Employees (in force from time to time).
Reporter	An individual who files a Complaint, but who is not a Complainant, Survivor, or Respondent. Often, this will be an individual who receives a Disclosure.
Respondent	The person alleged to have violated the Sexual Violence Policy.
Retaliation	<p>Taking, attempting to take, or threatening to take, any adverse action, or retribution, of any kind, against anyone involved in a sexual violence process, including the person who made a disclosure or complaint and anyone involved in an investigation, or resolution, of an allegation of Sexual Violence, or friends, or family, members of the same.</p> <p>Retaliation can take many forms, including threats, intimidation, pressuring, harassment, continued abuse, exclusion, withheld or absent action, violence or other forms or threats of harm to others, and in varying modes, including in person and in electronic communication or through a third party. Retaliation can also include adverse employment, or</p>

	educational actions, made, or taken, against an individual because of participation in the reporting, investigating and/or resolution of an alleged violation of this policy, or any conduct that would discourage a person from engaging in the same.
Senior Leadership Team	The President and Chief Executive Officer, together with the Vice Presidents of Banff Centre.
Sexual Assault	Non-consensual sexual actions done by an individual(s) to another, including any unwanted sexual acts and can involve a range of behaviours from unwanted touching to penetration through the use of force, threats, control of another person that makes someone feel fearful, distressed, or threatened, or is carried out in a way that an individual is not able to freely Consent, or withhold Consent. Sexual Assault is determined by lack of Consent, and not by the act itself. Sexual Assault is a criminal offense under the Criminal Code of Canada.
Sexual Violence	Any violence, physical or psychological, carried out without Consent through a sexual means, or by targeting sexuality. This includes, but is not limited to Sexual Assault , Sexual Harassment, Stalking , indecent exposure, voyeurism, degrading sexual imagery, distribution of sexual images or video of a member of Banff Centre Community without their Consent.
Sexual Violence Response Team	The Sexual Violence Response Team is established and lead by the Vice President, Human Resources. This team is responsible for supporting Survivors in navigating and understanding on and off-campus support and services; reporting options available to survivors; investigating complaints; and educating the Banff Centre Community on prevention and response to Sexual Violence. Team members will be provided with specialized training and will be readily available 24/7 to respond to allegations of Sexual Violence.
Stalking	Any unwanted and persistent behavior pursuing contact and/or harassing another in person, online, through notes, by phone, or through communications with third parties.

RELATED DOCUMENTS

- Related legislation:
 - Alberta Human Rights Act, RSA 2000, c A-25.5
 - Freedom of Information and Protection of Privacy Act, SA 2000, c F-25
 - Health Information Act, RSA 2000, c H-5
 - Occupational Health and Safety Act, RSA 2000, c O-2
- Related Banff Centre policies/procedures/additional information
 - *Policy - Anti-Harassment*
 - *Procedure - Anti-Harassment*
 - *Policy - Code of Ethics*
 - *Policy - Information Security*

- Procedure - Information Security – Incident Response Plan
- Procedure - Information Security – Storage and Distribution
- Policy - Privacy Policy
- Policy - Safe Disclosure
- Procedure - Safe Disclosure (General Disclosures)
- Procedure - Safe Disclosure (Serious Wrongdoing)
- Additional Information - Serious Wrongdoing (FAQs)
- Policy – Unlawful Activity
- Procedure – Unlawful Activity
- Policy – Workplace Violence
- Procedure – Workplace Violence
- Collective Agreement between The Banff Centre and the Canadian Union of Public Employees Local 4318 (in force from time to time)
- Terms of Employment governing Management and Program, Supervisory and Professional Employees

MODIFICATION HISTORY

- Original Approval Date: 16/02/2018
- Effective Date: 16/02/2018
- Subsequent Revision Dates: 16/02/2021

CONTACT

Support is available at the following locations:

EMERGENCY AND SUPPORT SERVICE	CONTACT DETAILS
RCMP Banff/Canmore/Exshaw/Lake Louise Emergency	Call 911
Banff Centre Emergency Hotline	Call 7777
YWCA Programs and Services Office	Daytime support call 403-760-3200, or email yps@ywcabanff.ca After-hours support call 403-762-3560
Banff Hospital (including urgent mental health)	Call 403-762-4451, or 403-762-2222 Call 1-877-303-2642 (24hr urgent mental health line)
Canmore Hospital (including urgent mental health)	Call 403-678-4696, or 403-678-5536 Call 1-877-303-2642 (24hr urgent mental health line)

Lake Louise After Hours Medical Emergency	Call 403-760-0169 or 911
Distress Centre Crisis Line (24 hour)	Call 1-403-266-4357
Bow Valley Victim Services	Daytime support call 403-760-0197 After-hours support call 403-762-2226
Calgary Communities Against Sexual Abuse (CCASA)	1-877-237-5888 (24hr urgent line)

For enquiries relating to this Policy, please contact the Policy Office:

- policy_office@banffcentre.ca
- 403-762-6240