



Approving University Official(s): Academic Council, Board of Governors, Board of Directors
Responsible Office: Human Resources
Effective date: December 5, 2020
Last review date: January 10, 2022
Next review date: 3 years

[AD- Prevention of Sexual Violence Policy]

Purpose

Yorkville University (“Yorkville”) is committed to providing its Students with a working and educational environment free from Sexual Violence which includes Sexual Assault and Sexual Harassment. Yorkville is further committed to treating its Students who disclose and report incidents of Sexual Violence with dignity and respect. Yorkville has adopted this Prevention of Sexual Violence Policy (the “Policy”) to reaffirm Yorkville’s commitment to a safe and healthy campus and to set out Yorkville’s response to incidents of Sexual Violence.

Audience

This Policy applies to all Members of the Yorkville Community. All Members of the Yorkville Community will be offered appropriate support with respect to issues of Sexual Violence, regardless of their role at Yorkville or the role of the Respondent.

This Policy may apply to Incidents of Sexual Violence in which both the Complainant and Respondent are Members of the Yorkville Community, regardless of whether the event occurred on campus, off campus including both physical and online environments (including social media), provided there is a nexus between the Incident of Sexual Violence and Yorkville.

The resolution options described in the procedures are in addition to, and not in substitution for, other internal or external options or other legal rights. Nothing in this Policy is intended to discourage, prevent or preclude an individual from filing a Report and/or Complaint under any other Yorkville policy and/or contacting police services, initiating legal action or exercising any other legal rights.

Definitions

Capitalized terms used in this Policy are defined below:

Campus Principal	refers to the senior administrator responsible for campus operations. On some campuses, the actual title of the person in this position is Provost or Director of Operations.
Complainant	means a person who has been affected by Sexual Violence. For the purposes of this Policy, the term Complainant is used throughout, irrespective of whether the person who has been affected by Sexual Violence chooses to disclose or report the incident or pursue a Complaint under any Yorkville policy.
Consent	refers to the voluntary and explicit agreement of an individual to engage in a sexual act. Consent is positive, active and ongoing, and can be revoked at any time. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity. Consenting to one kind of sexual act does not mean that Consent is given for another sexual act or kind of activity. Consent is NOT obtained where a person is incapable of Consenting – for example by intoxication, or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority. It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator’s responsibility to know if the person they are engaging with sexually is a minor.

It is not a defense to an allegation of Sexual Violence that the Respondent believed that the Complainant Consented to the activity that forms the subject-matter of the complaint, where (a) the Respondent’s belief arose from the Respondent’s (i) self-induced intoxication; or (ii) recklessness or willful blindness; or (b) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain that the Complainant was Consenting.

For greater clarity, Consent:

- cannot be assumed or implied;
- cannot be assumed to be given for all future sexual activity just because it was given in the past to a sexual/dating relationship;

- cannot be given by silence or the absence of “no”;
- cannot be given by an individual who is impaired by alcohol or drugs, or is unconscious or is otherwise unable to communicate;
- cannot be given by a person that has a mental disability preventing them from fully understanding the sexual acts;
- cannot be given by an individual who is asleep;
- cannot be obtained through threats or coercion (i.e. the individual is not agreeing voluntarily);
- can be revoked at any time by words or by conduct;
- cannot be given to an individual who has abused a position of trust, power or authority;
- might not be given properly if an individual has a condition that limits the individual’s verbal or physical means of interaction – in such instances, it is extremely important to determine how Consent will be established; and
- cannot be given to a person in a position of trust, power or authority such as a faculty member initiating a relationship with a Student who they teach, or an administrator in a relationship with anyone who reports to that position cannot be given on behalf of another person

Disclosure	refers to the sharing of information by an individual with a Member of the Yorkville Community regarding an Incident of Sexual Violence that has affected that individual. Yorkville offers confidential support, services and accommodations to those who have experienced Sexual Violence, regardless of whether the incident occurred on campus or off campus, and regardless of whether the incident involves other Members of the Yorkville Community.
Incident of Sexual Violence	includes any instance of Sexual Violence, including Sexual Assault, Sexual Harassment and all associated definitions provided herein.
Investigation	refers to the action of investigating an allegation(s) under this Policy. Yorkville will conduct an Investigation that is appropriate in the circumstances. An Investigation will include an impartial investigator, the collection of relevant information and procedural fairness to all parties to the matter, including the Complainant and the Respondent.
Member(s) of the Yorkville Community	includes Students, faculty, post-doctoral fellows, the Board of Governors and all employees of Yorkville.

Report [Complaint]	refers to the sharing of information by an individual with a designated Yorkville official regarding an Incident of Sexual Violence experienced by, or witnessed by, that individual, with the intention of initiating one of the processes set out in the Reporting section of this Policy and with the possible outcome of formal sanctions against the Respondent resulting from that process.
Respondent	is an individual against whom a formal Complaint alleging engagement in Sexual Violence is filed. The individual must be a Member of the Yorkville Community and must have been a Member of the Yorkville Community at the time of the incidents alleged in the Report.
Sexual Violence	refers to any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's Consent, and includes Sexual Assault, Sexual Harassment, stalking, indecent exposure, voyeurism and sexual exploitation.
Sexual Harassment	<p>is defined as, but is not limited to, engaging in a course of vexatious comment or conduct against an individual because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person making the solicitation or advance knows or ought reasonably to know that the solicitation or advance is unwelcome.</p> <p>Sexual Harassment also includes a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance, where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person. For the purpose of this Policy, Sexual Harassment includes Sexual Harassment that occurs in the workplace.</p>
Sexual Assault	refers to any form of sexual contact without a person's Consent, including the threat of sexual contact without Consent. A Sexual Assault can range from unwanted sexual touching to forced sexual intercourse; and a Sexual Assault can involve situations where sexual activity is

obtained by someone abusing a position of trust, power or authority.

Student

refers to any person taking one or more courses at Yorkville, either full-time or part-time, in any program of study, including special Students. For clarity, a Student is a person who is: registered in a Yorkville course of study and/or engaged in any academic work that leads to the assigning of a mark, grade or statement of performance by the appropriate authority within Yorkville and/or entitled to a valid Student ID card who is between sessions. An individual's status as a Student is not affected by whether the person receives courses remotely or in-person.

*The President may direct that definitions be amended from time to time to ensure consistency with public policy and community expectations and standards.

Policy Statement

Yorkville recognizes that Sexual Violence is a fundamental affront to an individual's rights, dignity and integrity. Yorkville also recognizes that Sexual Violence undermines the health, well-being, and security of individuals, communities, and society.

Yorkville will endeavor to ensure that Members of the Yorkville Community who are affected by Sexual Violence will be supported, treated with compassion, and provided with reasonable accommodation.

Yorkville shall not charge a fee for the provision of supports, services or accommodation to Students who are affected by Sexual Violence, or for referring a Student to any such supports or services that are available off-campus.

Yorkville recognizes that Sexual Violence can occur between individuals regardless of age, sex, sexual orientation, gender identity or gender expression, marital status or family status.

Yorkville recognizes the intersection of Sexual Violence with discrimination and harassment.

Yorkville recognizes that Sexual Violence is overwhelmingly committed against women, and in particular women who experience the intersection of multiple identities such as, but not limited to, Indigenous women, women with disabilities, and racialized women. Additionally, Yorkville recognizes that those whose gender identity or gender expression does not conform to certain gender binaries are also at increased risk of Sexual Violence. Yorkville recognizes that individuals from certain marginalized communities

may be especially vulnerable to Sexual Harassment, Sexual Assault and Sexual Violence.

Yorkville will maintain annual anonymized statistics on disclosed and reported Incidents of Sexual Violence in accordance with legislative requirements. Yorkville will report these statistics annually to the Board of Governors. External reporting of such statistics, if any, will be done in accordance with legislative requirements.

Yorkville will provide or make available to Members of the Yorkville Community education and awareness training on this Policy and on the prevention of Sexual Violence. The education and awareness training will be tailored to the audience.

Yorkville is committed to the provision of a fair process for all parties and one that respects due process and procedural fairness. Yorkville commits to providing a process under this Policy that avoids perceived conflicts of interest or reasonable apprehension of bias, preserves privacy to the extent practical and minimizes risk of reprisal. Yorkville is committed to reducing barriers to Disclosure and Reporting of Incidents of Sexual Violence. In that regard, Complainants will not be asked to repeat their allegations or description of events more than is necessary for the implementation of this Policy.

Yorkville will not tolerate any retaliation, including through social media, against anyone who discloses, complains about or reports an Incident of Sexual Violence, or who participates in a process that is addressing allegations of Sexual Violence against a Member of the Yorkville Community.

Yorkville will endeavor to respond to Disclosures and/or reports of Sexual Violence fairly and expeditiously.

Confidentiality And Privacy

All Disclosures and Reports of Sexual Violence to Yorkville will be treated in a confidential manner to the extent practical.

All Members of the Yorkville Community who receive a Disclosure of Sexual Violence or who are involved in addressing or investigating such Disclosure must keep the matter confidential in order to safeguard individuals against unsubstantiated allegations, to protect Complainants from retaliation or reprisal, to protect the rights of those involved in the allegations, to prevent an unjustified invasion of the privacy of those involved in the allegations, and to preserve the integrity of the Investigation.

Yorkville will make every reasonable effort to maintain confidentiality when it becomes aware of an Incident of Sexual Violence and will limit disclosure of confidential information to those within the Yorkville community who need to know for the purposes of investigating or taking corrective action. Information regarding an incident or reported Incident of Sexual Violence will be disclosed where necessary in order to address a risk to health and safety of Members of the Yorkville Community or where Yorkville is obliged

by law to disclose the information. Yorkville may not be able to guarantee confidentiality if:

- an individual is at imminent risk of self-harm;
- an individual is at imminent risk of harming an identified individual;
- Members of Yorkville Community or the broader community may be at imminent risk of harm; or
- disclosure is required by law (for example, but not limited to, an incident involving a minor, or obligations related to occupational health and safety or to human rights legislation)

If a survivor or other person requests that Yorkville not act on a Report of Sexual Violence, Yorkville must weigh that person's request against Yorkville's obligation to provide a learning and work environment that is safe and free from Sexual Violence for all Members of the Yorkville Community. However, a Complainant has the right not to participate in any Investigation that may be conducted by Yorkville.

Yorkville shall ensure that Student input is considered in the development of this Policy and every time it is reviewed or amended.

A copy of this Policy as approved and amended is to remain available on Yorkville's website. A printed copy of this Policy shall be provided upon request being made to the office of the Campus Principal/Chief Talent and Culture Officer- Human Resources.

Implementation

Please refer to the YU Prevention of Sexual Violence Procedures document.

Related Information

YU Prevention of Sexual Violence Procedures
Discrimination and Harassment Policy and Procedures
Student Code of Conduct
Employee Handbook
Workplace Violence Policy and Program
Equity, Diversity, and Inclusion Policy
Workplace Discrimination and Harassment Policy and Program

Contacts

The following individual(s)/office(s) can address questions regarding this Policy:

Employees:

Kelly Bird
Email: kbird@yorkvilleu.ca

Students:

Sheldon Bergner (YU NB)
Email: sbergner@yorkvilleu.ca

Ted James (YU BC)
Email: tjames@yorkvilleu.ca

Kevin Woodger (YU ON)
Email: kwoodger@yorkvilleu.ca

Revision Log

V1 January 10, 2022

Policy URL

<https://www.yorkvilleu.ca/wp-content/uploads/2023/02/Prevention-of-Sexual-Violence-Policy-01.pdf>