

CONSULTATION DRAFT

POST-SECONDARY INSTITUTIONS SEXUAL VIOLENCE POLICIES ACT

GENERAL REGULATIONS

Pursuant to section 7 of the *Post-secondary Institutions Sexual Violence Policies Act* R.S.P.E.I. 1988, Cap. P-11.2, Council made the following regulations:

- 1.** In these regulations, “Act” means the *Post-secondary Institutions Sexual Violence Policies Act* R.S.P.E.I. 1988, Cap. P-11.2. Act defined
- 2.** (1) A post-secondary institution shall ensure that its sexual violence policy lists all of the academic and non-academic accommodations available to a student affected by sexual violence. Provision of accommodations

(2) A post-secondary institution shall work with each student affected by sexual violence to determine the appropriate accommodations required based on the student’s experiences and expressed needs. Determination of needs

(3) A post-secondary institution shall use its best efforts to ensure that the appropriate accommodations determined under subsection (2) are provided to the affected student within a reasonable period of time. Reasonable time period
- 3.** (1) A post-secondary institution shall ensure that its sexual violence policy Content of sexual violence policy

 - (a) provides information about the supports and services available at the post-secondary institution for students who are affected by sexual violence, and identifies the specific official or office at the post-secondary institution that should be contacted to obtain the supports and services;
 - (b) provides information about the supports and services available in the community for students who are affected by sexual violence;
 - (c) informs students that the post-secondary institution will appropriately accommodate the needs of students who are affected by sexual violence, and identifies the specific official or office at the post-secondary institution that should be contacted to obtain the accommodations;
 - (d) informs students that they are not required to report an incident of, or make a complaint about, sexual violence under the process referred to in clause 3(2)(a) in order to obtain the supports and services referred to in clause (a) or the accommodation referred to in clause (c);

- (e) addresses the issue of consent, including defining the term “consent” for the purposes of the policy and specifying that, at a minimum, consent is required to be active, ongoing, informed and voluntary and may be withdrawn at any time; and
- (f) includes the information set out in subsection (2) respecting the post-secondary institution’s process for responding to and addressing incidents and complaints of sexual violence, as required by the Act.

Information to be included

(2) For the purposes of clause (1)(e), a sexual violence policy shall include the following information:

- (a) the process to be followed by a student who wishes to report an incident of, or make a complaint about, sexual violence, including the specific official or office to whom the incident should be reported or the complaint should be made;
- (b) the process for deciding whether an incident or complaint of sexual violence will be investigated by the post-secondary institution;
- (c) that a student affected by sexual violence may choose not to request an investigation by the post-secondary institution, and that, if the post-secondary institution pursues the complaint, the student has the right to choose whether to participate in any investigation that may occur;
- (d) the investigation and decision-making processes at the post-secondary institution that will take place if an incident or complaint of sexual violence is investigated;
- (e) a description of the elements of procedural fairness, including prompt, fair and impartial investigation and resolution, that will be part of the investigation and decision-making processes;
- (f) a description of the rights that a participant may have to legal or other representation, or to be accompanied by another person, during the investigation and decision-making processes;
- (g) examples of the interim measures that may be implemented while an incident or complaint is being investigated or a decision is being made regarding the incident or complaint;
- (h) examples of the decisions that may be made and measures that may be imposed after an incident or complaint is investigated;
- (i) the measures that will be implemented to protect and keep confidential personal information that comes to light in the course of the investigation of the persons involved in the incident or complaint;
- (j) a description of the appeal processes that may be available related to decisions resulting from the investigation process;
- (k) the responsibilities of senior administrators, students, faculty and others in relation to the policy;

(l) an estimate of the time required for the post-secondary institution to deal with a report or complaint of sexual violence, from the making of the report or complaint to a resolution.

4. (1) For the purposes of subsection 3(2) of the Act, a post-secondary institution shall

Development and amendment of sexual violence policy

(a) establish a process, in consultation with representatives of the post-secondary institution's elected student governing bodies, for the provision and consideration of input from a diverse selection of students, including those most vulnerable, regarding the post-secondary institution's sexual violence policy to ensure its policy is culturally sensitive and reflects the perspectives of those most vulnerable to sexual violence; and

(b) follow the process in the development of its initial sexual violence policy and every time the sexual violence policy is reviewed or amended.

(2) The president of a post-secondary institution shall authorize an official of the post-secondary institution to update, as required, the following information in the post-secondary institution's sexual violence policy:

Updates permitted

(a) the supports and services that are available at the post-secondary institution or in the community;

(b) the identity of the officials or offices at the post-secondary institution referred to in clauses 3(1)(a) and (c) and in clause 3(2)(a).

(3) An update described in subsection (2) does not constitute an amendment to the sexual violence policy for the purposes of subsection (1).

Update not amendment

5. Every post-secondary institution shall undertake activities to promote awareness of its sexual violence policy, including, but not limited to, the student input process established under clause 4(1)(a) and the institution's process for responding to and addressing incidents and complaints of sexual violence.

Promotion of awareness of policy

6. (1) Every post-secondary institution shall provide or make available appropriate training on its sexual violence policy to the following persons:

Training

(a) members of the post-secondary institution's governing body, and other senior administrators;

(b) faculty and staff of the post-secondary institution;

(c) students enrolled at the post-secondary institution;

(d) other persons specified in the policy.

(2) The training referred to in subsection (1) shall include training on sexual violence issues and the post-secondary institution's process for

Elements of training

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responding to and addressing incidents and complaints of sexual violence, including the elements set out in subsection 3(2).

Commencement

7. These regulations come into force on

EXPLANATORY NOTES

SECTION 1 establishes definitions for the purposes of the regulations.

SECTION 2 states the requirement for a post-secondary institution to provide appropriate accommodations to students affected by sexual violence, and to work with students affected to determine what accommodations are appropriate based on the student's experiences and expressed needs. The section also requires the appropriate accommodations to be provided to an affected student within a reasonable period of time.

SECTION 3 specifies the information that must be included in a post-secondary institution's sexual violence policy.

SECTION 4 requires a post-secondary institution to establish a process, in consultation with representatives of the elected student governing bodies, for the provision and consideration of input from a diverse selection of students, including those most vulnerable, regarding its sexual violence policy to ensure the policy is culturally sensitive and reflects the perspectives of those most vulnerable to sexual violence, and to follow the process in the development of the initial sexual violence policy and every time the policy is reviewed or amended. The president of a post-secondary institution shall authorize an official of the post-secondary institution to make updates as necessary to the supports and services named in the policy and the identity of officials or offices to be contacted, and those updates do not constitute an amendment to the policy.

SECTION 5 requires each post-secondary institution to undertake activities to promote awareness of its sexual violence policy, including, but not limited to, the process for student input and its process for responding to and addressing incidents and complaints of sexual violence.

SECTION 6 requires each post-secondary institution to provide or make available training on its sexual violence policy to the specified persons. The section also specifies that the training must include sexual violence issues and the process for responding to and addressing incidents and complaints of sexual violence, including the elements set out in subsection 3(2).

SECTION 7 provides for the commencement of the regulations.

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