

<b>Subject:</b> Sexual Violence Policies	<b>Policy Number:</b> EXT-10	<b>Last reviewed:</b> 2023 May 8
<b>Approved by:</b> Council	<b>Managed by:</b> Advocacy & Policy Committee	<b>Next review:</b> 2025 Apr. 30

### Policy Rationale:

Sexual violence is unacceptable in any context and must be addressed throughout society. In the case of the post-secondary sector, it is essential that students, parents, and educators have confidence that public post-secondary institutions will implement a robust zero-tolerance policy in order to keep the community safe. British Columbia accomplishes this through the *Sexual Violence and Misconduct Policy Act*, which requires all schools to have such policies in place.<sup>1</sup> This was introduced in 2016 and enjoys broad cross-partisan support.<sup>2,3</sup>

This law, and the related policies, has helped to improve accountability and justice for survivors of sexual violence. However, there are still considerable gaps that must be improved. Recently, the Alliance of BC Students, as well as the BCIT Student Association and numerous student groups around the province, called on the BC Government to provide more funding to support survivors and to amend the law to make it stronger.<sup>4</sup> Unfortunately, the Government has not yet agreed to these measures, making clear that continued advocacy on this file is necessary.

It is essential that government regulations and institutional policies remain current and capable of addressing the numerous facets of gender-based violence. According to Statistics Canada, one-in-ten female students surveyed in 2019 reported being sexually assaulted in a post-secondary setting, a reminder of how prevalent this continues to be.<sup>5</sup> At the same time, courts have recognized additional forms of sexual assault that are not yet recognized in policy.<sup>6</sup> This informs the urgent need for a review of the *Act* and the policies.

### External Policy Position:

1. The Student Association supports:

A. Provincial legislation, through the existing *Sexual Violence and Misconduct Policy Act*, that requires public post-secondary institutions to have robust policies in place to combat all forms of sexual violence, particularly against students;

<sup>1</sup> *Sexual Violence and Misconduct Policy Act*. Revised Statutes of British Columbia, 2016 ([link](#)).

<sup>2</sup> “Premier Clark takes action against sexual violence on campuses.” Province of British Columbia, 2016 ([link](#)).

<sup>3</sup> “Statement on sexual violence prevention and response policies.” Province of British Columbia, 2017 ([link](#)).

<sup>4</sup> “Open Letter to BC Government on Sexualized and Gender-Based Violence in Post-Secondary.” Alliance of British Columbia Students, 2023 ([link](#)).

<sup>5</sup> “Students’ experience of unwanted sexualized behaviours and sexual assault at postsecondary schools in Canadian provinces, 2019.” Statistics Canada, 2019 ([link](#)).

<sup>6</sup> “Supreme Court rules not wearing condom against partner’s wishes could lead to sexual assault conviction.” Canadian Broadcasting Corporation, 2022 ([link](#)).

- B. The government using the regulation-making authorities in the *Act* to establish more rigorous procedural standards with respect to how a post-secondary institution receives a complaint or report of sexual violence against a student, which the government has not yet done;
  - C. A new requirement in the *Act* that the legislation itself be reviewed regularly by a parliamentary committee established for that purpose, taking into account all available data and any feedback provided by those affected by the policy;
  - D. The development of an independent mechanism for students to file complaints regarding how their institution has handled cases of sexual violence or otherwise failed to comply with duties under the *Act*, such mechanism to be established external to the post-secondary institutions and designed to be less onerous and more streamlined than formal processes;
  - E. The provincial government collecting and analyzing aggregated data from all public post-secondary institutions with respect to instances of sexual violence, including the number of reports, complaints, and disclosures received, and how they were handled by the institution under their respective policies;
  - F. Continued funding by government and public post-secondary institutions for educational resources and campaigns that help to prevent gender-based violence before it occurs; and
  - G. Amending the *Sexual Violence and Misconduct Policy Act* to require that post-secondary policies must incorporate a presumption that any survivors of sexual violence will have access to timely, trauma-informed, and survivor-centric academic accommodations.
2. The Student Association opposes:
- A. The ongoing failure of the provincial government to fund the creation and maintenance of on-campus sexualized violence support centres, which had led to a patchwork of supports and often requires student associations to provide these services using their own limited funds;
  - B. Any instance of the Ministry of Post-Secondary Education and Future Skills condoning any non-compliance with the *Act* on the part of any public post-secondary institution; and
  - C. The absence of “stealthling” (defined as “pretending to use a condom or removing one prior to sex without the partner’s consent”) from the list of examples of “sexual misconduct” used in the *Act*, even though the Supreme Court of Canada has determined it is a criminal act.<sup>7</sup>
3. The Student Association is supportive of the following principles with respect to sexual violence policies, which flow directly from the eleven minimum standards championed by *Students for Consent Culture*:<sup>8</sup>

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<sup>7</sup> Defined in the CBC article, *ibid*.

<sup>8</sup> Spicer, Chantelle and Connor Spencer. “Moving Beyond Potential: Building Justice for Students in British Columbia - A Call for Action on Campus Sexual Violence.” *Students For Consent Culture*, 2019 ([link](#), pages 4-6).

- A. Sexual violence policies must be stand-alone policies with a singular focus on preventing and addressing sexual violence. This ensures that processes can be survivor-centric and trauma-informed, while providing clarity to complainants with respect to how a case will be handled.
- B. Complainants must have the right to participate in both the institutional process and any criminal proceedings. Access to the criminal justice system should not preclude a proper investigation under a post-secondary institution's sexual violence policy.
- C. Any person who will act in an investigative or decision-making capacity with respect to a sexual violence complaint must participate in mandatory training on sexualized violence.
- D. Sexual violence policies should include "rape shield" provisions, which prohibit a complainant from being asked about their own sexual history, a practice based on harmful stereotypes.
- E. Complainants should be protected from face-to-face encounters with the respondent, given how distressful they can be for survivors of sexual violence.
- F. Clear timelines should be established so that complainants have reasonable expectations about how the process will unfold.
- G. "Gag orders," whereby a complainant is prohibited from speaking about what happened to them, should not be imposed by post-secondary institutions.
- H. The scope of any sexual violence policy should be defined in a sufficiently broad manner so as to capture more than just on-campus incidents.
- I. Complainants and respondents should have the right to be informed of any sanctions or penalties that arise as a result of a sexual violence investigative process, which is sometimes impeded by the application of privacy or labour law.
- J. Student voices should be sufficiently represented on any committees or task forces established by post-secondary institutions to advance the prevention of sexual violence.
- K. Two years should be the maximum review period for sexual violence policies, rather than the current three years required by the *Act*. This allows institutional responses to remain current and recognizes the harmful impact of sexual violence in any student's life.