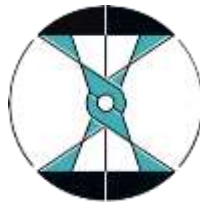


# **Independent Review of Mount Allison University's Practices and Policies Related to Sexualized Violence**

*Prepared for Mount Allison University  
June 30, 2021*



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## **REPORT OF THE INDEPENDENT REVIEW PANEL FOR MOUNT ALLISON UNIVERSITY JUNE 30, 2021**

### **OVERVIEW**

In late December/early January 2021, the [Canadian Centre for Legal Innovation in Sexual Assault Response](#) (CCLISAR) was engaged by the University to form an Independent Review Panel (“IRP”) to provide recommendations on improving the University’s policies and procedures in response to disclosures and reports of sexual violence.

CCLISAR is a charitable, non-partisan organization that seeks to better understand (so that we can better address) the gap between Canada’s seemingly progressive legal regime and its effects on the social problem of sexual harm and the experiences of survivors of sexualized violence. The Terms of Reference for the IRP’s work are attached as Schedule “A” to this report and were made available online on the University’s website. The Members of the IRP are Joanna Birenbaum (Chair), Professor Elaine Craig and Myrna McCallum. The brief biographies for the IRP members are also found at Schedule “A” and were made available on the University website.

In November 2020, current and former students of Mount Allison University and other community members, engaged in public discussion and criticism of Mount Allison University’s responses to sexual violence on campus. In response, the University took various steps, including committing to an external and independent review of the University’s practices and policies related to issues of sexualized violence.<sup>1</sup>

The Terms of Reference provided that the IRP will:

Assess the implementation of the University’s sexual violence policy and procedures, along with other University policies and procedures with which they intersect, in order to ensure that the University has effective and defensible practices and procedures that are:

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<sup>1</sup> Mount Allison University, “Responding to Sexual Violence Prevention Concerns”, November 12, 2020, [https://www.mta.ca/Community/News/2020/November/Responding\\_to\\_sexual\\_violence\\_prevention\\_concerns/](https://www.mta.ca/Community/News/2020/November/Responding_to_sexual_violence_prevention_concerns/)



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- Responsive to those who report experiences of sexual harm
- Trauma-informed
- Procedurally fair to complainants and respondents.

Consider the ways in which the structure or implementation of the University's resources, policies and procedures may have fallen short of their purpose in the past, with a view to implementing change in the future.

The IRP commenced its work by undertaking a comprehensive review of the University's existing policies and procedures, as well as a confidential documentary review of several years of case files involving issues of sexual violence, in order to gain an in-depth understanding of the processes and practices at the University.

In the period of February – April 2021, the IRP conducted sixteen (16) group consultation sessions, including participation from:

- graduate and undergraduate students, including alumnae
- student union leaders
- representatives of student groups and organizations
- the co-chairs and members of the Sexual Violence Prevention Working Group established in November 2020 as part of the University's commitment to improving sexual violence education and response on campus
- faculty and staff employed by the University (including in health and wellness, residence life, athletics, human resources, security)
- students and staff who have worked at, or had experiences with, the Sexual Harassment and Assault Response and Education ("SHARE") office, which was the University office responsible for receiving and responding to disclosures and reports of sexual violence (until December, 2020 when an interim revised procedure was instituted)
- acting facilitators under the University's January 2021 interim revised procedure for responding to sexual violence
- members of the University community who identify as survivors of sexual violence
- students and staff who provided input from the perspective of persons who identify as BIPOC and/or LGBTQ2S



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In addition to the sixteen group sessions, approximately ten (10) one-on-one consultations were held with individuals at their request. The IRP also received comments and contributions to the consultation process by email.

In addition, in accordance with the Terms of Reference, an Expert Advisory Group (EAG) workshop was held in May 2021 to discuss the IRP's questions and thoughts on some of the IRP's proposed recommendations. Two additional independent experts, Professors Karen Busby (University of Manitoba) and Melanie Randall (University of Western Ontario) were selected by CCLISAR to participate on the EAG. Further, following the EAG workshop, an additional meeting was held with representative students and staff of the University to specifically discuss proposed recommendations as they relate to campus sexual violence and BIPOC and LGBTQ2S students and staff.

In total, the IRP has met with, or received feedback from, approximately 100 persons at the University.

The IRP is grateful for the time and commitment devoted to the review process by all who participated. We were impressed by the level of engagement, good will and thoughtfulness of the students, staff and faculty with whom we met. We were also impressed by the optimism of most participants - who expressed their belief and hope that the recommendations emerging from this review process will be implemented by the University and will lead to positive change.

Over the course of the consultations, the IRP was consistently asked to consider a number of areas of concern and suggestions for change necessary to improve the University's responses to sexual violence on campus. The themes/areas of concern that emerged from the consultations are listed below. Each will be addressed in this report, along with the IRP's recommendations.

- (A) RESTRUCTURING AND BETTER RESOURCING THE UNIVERSITY'S SEXUAL VIOLENCE EDUCATION AND RESPONSE OFFICE
- (B) IMPROVING SERVICES FOR BIPOC AND LGBTQ2S STUDENTS AND STAFF
- (C) ENHANCING AND DIVERSIFYING ACCESS TO COUNSELLING SERVICES



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### (D) TRAINING AND EDUCATION

- a. Mandatory training for all faculty and staff
- b. Mandatory training for first-year students
- c. Improved and ongoing training and support for Dons, Residence Assistants, and other students who play leadership roles in residence
- d. Mandatory training for student athletes
- e. Resilience and mental health training and support for faculty and staff

### (E) REVIEW AND REVISIONS TO THE UNIVERSITY'S SEXUAL VIOLENCE POLICY AND PROCEDURES

### (F) EVALUATION OF CHANGES IMPLEMENTED

### (G) OTHER ISSUES

- a. Revising the University's Sexual Violence Intake and Complaints forms
- b. Collection and publication of data
- c. Communications by the University
- d. Prohibition on or regulation of faculty-student relationships

Before addressing the above areas, however, the IRP wishes to emphasize that throughout the consultations it was clear that there is considerable confusion about the University's sexual violence policy. This confusion was not just evident among students, but faculty and staff as well. In particular, we observed confusion with respect to what is meant by an "informal report" and the differences between "disclosure", "formal report" and "informal reports." There was a lack of knowledge and understanding of how to report, to whom to report, what the process involves, the rights of respondents and complainants, and issues of confidentiality and privacy. A surprising number of students said that they wouldn't know where to go or what to do if they experienced sexual violence.

As discussed below, this confusion can be addressed in part through mandatory training for students and staff, as well as through definitional, procedural, and structural change under the policy.

Finally, the November 2020 public discussion and criticisms, and almost all of the discussion in the IRP's consultations, focused on sexual violence experienced by students. For this



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reason, this report will similarly focus on student experiences. Mount Allison's sexual violence policy, however, applies to students, staff and faculty (with the proviso that in the event the sexual violence policy conflicts with the terms of a Collective Agreement, the Collective Agreement would prevail). The IRP supports there being a single and stand-alone policy that applies to all members of the University community: students, staff and faculty alike.

The IRP also notes that we heard that the sexual violence policy, procedure and supports appear to be underutilized (or in fact not utilized at all) by faculty and staff who may themselves experience any form of sexual violence related to their workplace. We hope that the recommendations made in this report will improve education as well as access to institutional responses to sexual violence for staff and faculty, as well as students.

### **A Note on Language**

In this report, the IRP will generally use the word "survivor" to refer to a person who has experienced sexual violence. We appreciate that for a variety of reasons, not everyone chooses this term to apply to their experiences (including, for example, because some do not feel they have yet "survived" it). The term however is broadly used and accepted within anti-violence movements as a term of "empowerment, strength and healing."<sup>2</sup> The word "complainant" refers to a person who has made a report to the University for the purpose of triggering an institutional response under the policy for measures imposed on the person who committed the harm. The word "respondent" refers to a person in respect of whom a report that the person has engaged in sexual violence has been made

This report will make various recommendations that the University's processes and staff be trauma-informed and culturally responsive. These words, however, are used widely with significantly varying understandings of what they actually mean. "Trauma-informed" refers to an approach that means more than simply being kind and nice, as important as these attributes are. An example of a definition of "trauma-informed" in a university policy is as follows, and applies to everyone involved in campus sexual violence processes, including complainants, respondents, witnesses, staff, investigators and administrative decision-makers:

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<sup>2</sup> Mount Allison University Sexual Violence Policy 1006, revised July 27, 2020.

[[https://www.mta.ca/Community/Governance\\_and\\_admin/Policies\\_and\\_procedures/Section\\_1000/Policy\\_1006/Policy\\_1006/](https://www.mta.ca/Community/Governance_and_admin/Policies_and_procedures/Section_1000/Policy_1006/Policy_1006/)]





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“Trauma and Violence Informed Approach” means an understanding of the impacts of sexual violence on individuals, families, communities and places, including intergenerational trauma. A trauma and violence informed approach uses that understanding to develop practices that minimize further harm, foster healing and honor strength and resiliency. A trauma and violence informed approach recognizes historical trauma and promotes systemic change rooted in resilience, not re-victimization.<sup>3</sup>

Other definitions refer to the specific impacts of trauma, for example on memory and the ability to recall events in a detailed or chronological manner, and the importance of adapting practices and procedures accordingly.<sup>4</sup>

Mount Allison’s policy and procedure should define the terms “trauma-informed” and “culturally responsive” in a manner reflective of and informed by the environment and context of Mount Allison and its members.

### **(A) RESTRUCTURING AND BETTER RESOURCING THE DESIGNATED OFFICE AT MOUNT ALLISON UNIVERSITY TO ADDRESS SEXUAL VIOLENCE PREVENTION, EDUCATION AND RESPONSE**

#### **i. Background: Maintaining a Designated Office to Receive Disclosures and Reports of Sexual Violence is a Best Practice**

Since approximately 2015, there has been growing consensus across Canada that post-secondary institutions (PSIs) should have a designated, centralized, specialized and accessible office to address and respond to sexual violence on campus. For example, the June 2016 expert panel on sexual assault response at UBC recommended as follows:

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<sup>3</sup> <https://www.capilanou.ca/media/capilanouca/about-capu/governance/policies-amp-procedures/board-policies-amp-procedures/Sexual-Violence-Policy-FINAL-November-2020.pdf>

<sup>4</sup> Khan, F., Rowe, C. J., and Bidgood, R. (2019). *Courage to Act: Developing a National Framework to Address and Prevent Gender-Based Violence at Post-Secondary Institutions in Canada*. Toronto, ON: Possibility Seeds, available at <https://static1.squarespace.com/static/5d482d9fd8b74f0001c02192/t/609936ef0ef3282e2056656f/1620653835294/Courage+to+Act+Report.pdf> .



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We believe that the range of available services must be: a) adequate in scope and not overburdened; b) not put too much of the responsibility on survivors to alter their routines or behavior; and c) be coordinated so that survivors do not have to repeat their story over and over. We believe that UBC should implement **a one-stop, but not one-size-fits-all, model**.<sup>5</sup> (emphasis added)

Consistent with the above emerging best practice for a centralized and one-stop approach to disclosures and reports of sexual violence on campus, from May 2016 to January 2021, Mount Allison University had a designated sexual violence office. This office was referred to under the University's policy as the SHARE Service (Sexual Harassment and Assault Response and Education Service). The SHARE office was staffed by one part-time person whose title was the "SHARE Advisor."

### ii. **Structural Barriers Interfering with the Success of Mount Allison University's SHARE Service**

The success of any PSI's designated sexual violence office depends on a number of factors, starting with the staffing and resourcing of the office. It is also imperative that the representative(s) of the office be tasked with roles that do not put them in a conflict of interest or otherwise create barriers to their ability to provide specified services.

At Mount Allison University, the SHARE office faced a number of challenges to its success, some of which reflected resource constraints, and others were imposed by the University's sexual violence policy and procedures. These challenges included the following:

- The office was under-resourced and understaffed. The SHARE Service was staffed by only one staff person, the SHARE Advisor, who worked part-time and who relied on Mount Allison University student interns for support.

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<sup>5</sup> Sexual Assault at the University of British Columbia: Prevention, Response and Accountability, <https://fnis2017.sites.olt.ubc.ca/files/2016/09/USAP-Report-20-June-Submitted.pdf>



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- Under Mount Allison University's Sexual Violence Policy 1006 (until it was amended by a revised interim policy<sup>6</sup>), the SHARE Advisor was required to undertake multiple and often significantly conflicting, roles, which included:
  - Receiving and responding to disclosures and facilitating access to medical, legal and counselling services and accommodations;
  - Acting as a support person for Mount Allison community members in pursuing disclosure or reporting of sexual violence;
  - Making the decision and having the authority to impose interim measures on the respondent following a disclosure or report by a complainant;
  - Conducting risk assessments in consultation with the Sexual Assault Response Team (SART);
  - Facilitating informal resolutions in response to disclosures or reports;
  - Supporting complainants in preparing formal reports of sexual violence to be investigated under the policy;
  - Making the decision as to whether a formal complaint will not be investigated because it is trivial, frivolous and vexatious, should be dealt with under a different university policy, is not covered by the University's sexual violence policy, or is out of time;
  - Where the decision is made to investigate, appointing the internal or external investigator;
  - In cases of formal reports that proceed to investigation, receiving the report of the investigator (along with the Director of Student Life, in the case of student respondents); and
  - Deciding whether a breach of the sexual violence policy has occurred and, in consultation with the relevant authority (depending on whether the respondent is a student or staff) making the decision as to corrective action.
  
- At times, the SHARE Advisor also acted as a support person for Mount Allison community members who are alleged to have breached the University's sexual violence policy, thus being a resource for both survivors and respondents at the same time.

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<sup>6</sup> Mount Allison University Sexual Violence Prevention and Response Procedural Information, Policy 1006 procedures (January 2021), [https://www.mta.ca/Community/Governance\\_and\\_admin/Policies\\_and\\_procedures/Section\\_1000/Policy\\_1006/Policy\\_1006\\_procedures/Policy\\_1006\\_procedures/](https://www.mta.ca/Community/Governance_and_admin/Policies_and_procedures/Section_1000/Policy_1006/Policy_1006_procedures/Policy_1006_procedures/)



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- These overlapping functions contributed significantly to the lack of trust in the SHARE office and in Mount Allison University's response to sexual violence, as articulated in the public criticisms in November 2020 and during the course of the IRP's consultations.
- The blurring of roles also raised concerns about privacy and confidentiality for complainants and respondents. In particular, there were concerns about the unclear relationship and information-sharing between the SHARE and Student Life offices.
- In her educational mandate, the SHARE Advisor was required to develop educational and prevention strategies, including campaigns, training sessions, workshops and print and online materials. This is a significant job which would be difficult if not impossible to achieve on a part-time basis while also fulfilling the role of intake and support person for survivors.

In the consultations, survivors and others who supported them, expressed concerns that survivors who accessed the SHARE Service were pressured into informal resolutions or otherwise discouraged from reporting formally. We heard that complaints or reports to the SHARE office seemed to 'get lost at that level and not go past it'. As noted above, some of these concerns may be attributable at least in part to the conflicting roles of the SHARE Advisor under the policy.

In addition, in the IRP's view, some of the experiences we heard (of survivors feeling pressured into resolutions at an early and pre-investigation stage) may be attributable to the lack of formality or structure with respect to imposing interim measures on respondents. As will be discussed in the "immediate measures" section of this report below, the IRP's view is that immediate measures imposed on respondents in response to sexual violence disclosures and reports, can often offer a good solution to preserve and protect the complainant's rights to safely access her education, employment and/or living environment, while at the same time respecting the procedural fairness rights of respondents. Such an approach to immediate measures, however, needs to be structured and transparent, with a clear separation of decision-making roles. We will return to this issue below in the section of this report that addresses changes to the University sexual violence policy and procedure.

Finally, the IRP heard that some complainants were discouraged from pursuing a formal investigation because they were intoxicated during the time of the incident reported. Going forward, this concern may be addressed through education and training of students and



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staff, including ongoing training of the staff of the sexual violence office, with respect to problematic social assumptions about intoxication and consent.

Another challenge to the success of Mount Allison's sexual violence office raised by participants in the consultations was its accessibility and responsiveness to BIPOC and LGBTQ2S students.

Finally, we heard repeatedly that Mount Allison is a relatively small university located in a relatively small community. This environment has many benefits. One challenge that we heard raised in the consultations, however, related to privacy and confidentiality. The issue of privacy and confidentiality arose in a number of respects in the context of the role of the sexual violence office, two of which are particularly noteworthy from the perspective of the IRP.

The first is that survivors (and respondents) need to have a good understanding of the procedures, including with whom, and at what stages, others within the University might receive information about the disclosure or report, and the confidentiality protections in place.

The second is the importance, to the extent possible, of separating the roles of sexual violence intake and support from sexual violence education and training at Mount Allison. For example, survivors discussed their discomfort with expressions of individual or personal support, recognition or intimacy conveyed by the SHARE Advisor to them when undertaking her educational and training roles in the broader community, since (regardless of best intentions) this identified (or was perceived to identify) them as survivors who had accessed the services of the SHARE office. This discomfort expressed by survivors who made disclosures was exacerbated by the fact that the SHARE office relied on student interns and volunteers to assist with running the office in the areas of education and training.

The concern that the roles of sexual violence support be separated from sexual violence education and prevention is valid within the context and reality at Mount Allison University at the present time. It should also be recognized, however, that it is very common at post-secondary institutions for the role of support person for disclosures/reports to be combined with education and prevention. Moreover, this combination of roles can be appropriate and efficient, since educational efforts may be informed by systemic issues identified in the handling of disclosures and reports, provided the confidentiality of individual cases is strictly maintained.



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Although we did not hear about barriers to staff and faculty accessing the sexual violence office (since the office did not seem to be utilized by staff and faculty), going forward, Mount Allison should also consider how to make the office a safe, accessible and confidential space for staff and faculty as well as students.

### **Recommendations:**

1. The SHARE office should be renamed and visibly restructured, projecting a commitment to building trust and confidence in the University, and a fresh relationship and approach.
2. The sexual violence office should be staffed by a minimum of the equivalent of 2 full-time persons.
3. With respect to the qualifications of these two full-time persons, the IRP acknowledges that the Sexual Violence Prevention Working Group has made recommendations for this position (which are attached as Schedule B). The IRP seeks to complement the Working Group's efforts by recommending that the qualifications of the two new staff persons include demonstrated understanding and experience and/or formal training in sexual violence, trauma-informed and culturally responsive practices, counselling or education (depending on the role), intersectional oppressions, and serving persons other than hetero-cisgendered women. In staffing this office, priority should be given to hiring employees who are BIPOC and/or LGBTQ2S.
4. To the extent possible there should be a separation of roles between the specialized intake and support staff person who receives disclosures or reports of sexual violence and the staff person who specializes in education, prevention and training. It is recognized, however, that depending on the volume of disclosures and reports in a given year, the intake/support staff may also engage in education and prevention (and vice versa). Strict confidentiality protocols should be in place in the office, to ensure that those involved in education and training are not privy to the sensitive information arising from disclosures and reports.
5. The University Sexual Violence Prevention and Response Policy and Procedure must be revised. The revisions must remove conflicting and overlapping functions from the



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role of the staff persons in the sexual violence office. The staff person in the sexual violence office should not be a final decision-maker in any step of the process under the University's revised sexual violence policy. Other revisions to the policy are discussed in the "Review and Revision to the University Sexual Violence Policy" section below.

6. In terms of the appropriate role of the staff of the sexual violence office in response to disclosures and reports, the IRP recommends that this role should be one of support, such as by:
  - providing information to survivors about the process and their options
  - facilitating accommodations and access to external and internal services and supports
  - assisting the complainant in navigating the various processes, whether that be requesting immediate measures imposed on the respondent, the investigation of a report, an alternative process, and/or review or appeal process
  - communicating safety concerns of the complainant in any risk assessments
  - communicating to the relevant decision-makers the complainant's perspective and/or request(s) in relation to the imposition of any accommodation, immediate measures or corrective action.

### **(B) IMPROVING SERVICES FOR BIPOC AND LGBTQ2S STUDENTS AND STAFF**

Another consistent and strongly expressed concern throughout the consultations was that there exists a lack of adequately representative and/or culturally responsive services for underserved students, including LGBTQ2S and BIPOC students. We heard that no matter how exceptional the one Indigenous Affairs Co-ordinator and the one Black Student Advisor and Diversity Educator, the resources and supports for such students need to be broader. This was a concern that related directly to safe services for BIPOC and LGBTQ2S students who have experienced sexual violence (or are respondents to sexual violence complaints), as well as being a broader issue for the University.<sup>7</sup>

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<sup>7</sup> The IRP also heard that there was no designated appropriate physical space for Indigenous students to seek culturally responsive and trauma-informed support that reflects traditional practices.



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The IRP will limit its comments and recommendations to these issues as they relate to the University improving its responses to campus sexual violence. In this regard, the IRP was advised repeatedly in the consultations about the critically important role played by the Indigenous Affairs Co-ordinator in supporting BIPOC students who have experienced sexual violence.

The IRP is concerned about the workload carried by the existing BIPOC staff persons, and the potential for vicarious trauma for the staff persons whom underserved students turn to for support. The IRP emphasizes the importance of ensuring institutionalized practices and structures are in place to support these staff as a matter of prevention and community building (rather than, for example, support being limited to individual referrals to counselling through the Employment Assistance Program).

Finally, the IRP heard that on-campus counselling services were not, or were not perceived to be, accessible or appropriate for BIPOC and LGBTQ2S students. The IRP recognizes the challenges, particularly in a small community like Sackville, of hiring and retaining a staff complement of qualified counsellors who are fully representative of and responsive to a diverse student body. The IRP also recognizes that the counselling staff may well be trained in certain areas. The IRP, however, is reporting on the concerns raised. The recommendations for better meeting the counselling needs of BIPOC and LGBTQ2S students and staff will be discussed in the next section on counselling and wellness.

### **Recommendations:**

1. Mount Allison University retain a knowledge keeper/elder in residence with employment of a minimum of three days a week who will serve as a cultural, spiritual and emotional support provider for those disclosing and/or reporting sexual violence. The elder should be someone who identifies as a woman or two-spirit and who has been selected through a process that includes staff and student consultation and which meets Indigenous Elder-recognition and approval processes.<sup>8</sup>
2. For a pilot period of three years, funding be allocated to the Indigenous Affairs Co-ordinator's office for the purposes related to sexual violence prevention, response and programming. A portion of these funds should be allocated by the office to develop and deliver sexual violence peer training and programs led by Indigenous

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<sup>8</sup> These processes can be identified in consultation with the Indigenous Affairs Co-ordinator.





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students, on the intersection between sexual violence experienced by Indigenous people, colonialism and trauma.

3. Mount Allison should follow through with its 2019 commitment to establish a website and resources which respond to the MMIWG Calls for Justice and demonstrate a commitment to *Missing and Murdered Women and Girls: A Traumatic Journey from Mi'kma'ki Ancestral Times to Present*.
4. As repeated below in the recommendations on education and training, the University should provide annual training for the staff in the sexual violence office and other staff exposed to disclosures and reports of sexual violence, on vicarious trauma and mental health resilience. One day per term should also be devoted to professional development, collaboration, peer support and resilience building in this area. Reserving this time per term is essential, since too frequently staff repeatedly exposed to trauma do not realize the impact until it's too late.

### **(C) ENHANCING AND DIVERSIFYING ACCESS TO SEXUAL VIOLENCE COUNSELLING SERVICES**

In the IRP's consultations we heard that survivors are not relying on the resources of the counsellors employed in the University's Wellness Centre for support with sexual violence. In fact, there appeared to be a separation between the SHARE Service and counselling services in this area, where students who approached the Wellness Centre to discuss sexual violence were directed to the SHARE. There even appeared to be confusion among the staff of the Wellness Centre as to whether their office provided specialized sexual violence counselling services. This appears to have left a gap in counselling services for survivors, who perceived that counselling at Mount Allison University was not specialized for their needs (and/or they were referred out) and the SHARE office was not staffed by a trained counsellor (and in any event had a mandate under the policy that would make confidential counselling services impossible).

We also heard about other factors that may also contribute to why survivors were not accessing the Wellness centre, including delays in obtaining a 45minute to 1-hour long appointment for more in-depth or ongoing service, the limited duration of crisis counselling appointments (15 – 30 minutes), and for some students, a real or perceived lack of expertise with LGBTQ2S/BIPOC lived experience.



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We also heard that for more serious mental health concerns, the community resources beyond the University's wellness centre were extremely limited, which is a systemic problem in smaller communities.

Ideally, sexual violence counselling should be available on campus, with access to trained sexual violence counsellors, for appointments that are appropriate in length, and the duration of the course of treatment appropriate to the need. It may be that, but for the apparent structural divide between the SHARE Service and the Wellness Centre, those services were (or should have been) more available on campus than has in fact been the case in the past. This barrier can be overcome by promoting the counselling services and clearly delineating the very separate forms of support offered by the sexual violence office and counselling services.

Further, ideally, to address the gap in access to counselling services, particularly for BIPOC and LGBTQ2S students who have experienced sexual violence, an Indigenous counsellor with expertise in sexual violence and trauma, intersecting inequalities and training and background in traditional healing modalities, should be hired and added to the complement of counsellors at the Wellness Centre. The IRP recognizes, however, that it has no information on the University's budget for health and wellness services.

In addition, and/or in the alternative if the hiring of a new counsellor is not possible, the recent increased reliance on zoom or other internet-based health services, has opened up other (albeit imperfect) ways to improve access to sexual violence specialized counselling in small communities. The IRP recommends that for a pilot of three years, the University develop a roster of trained sexual violence counsellors in private practice who are available to provide counselling services to Mount Allison University students and staff, either remotely or in-person. The roster of practitioners engaged for this purpose should prioritize counsellors who are either from, or specialize in serving, underserved communities, in particular BIPOC and/or LGBTQ2S communities. The roster may also include practitioners or persons working in specialized agencies in New Brunswick who serve survivors of sexual or gender-based violence.<sup>9</sup>

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<sup>9</sup> Another model is found at UNB, STU and NBCC, which use a tri-campus approach to sexual violence counselling. In addition to their own designated campus counsellors, Indigenous counsellors and/or Elder-in-Residence, the three universities share two certified sexual violence counsellors in partnership with the provincial agency, Sexual Violence New Brunswick. <https://www.stu.ca/sexualviolencesupport/>. The three universities also share one LGBTQIA2S+ Wellness Coordinator who attends each campus throughout the week.



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### **Recommendations:**

1. The University develop a three-year pilot project in which counsellors with specialized training in sexual violence and trauma be made available to Mount Allison students and staff, either in-person or remotely. The roster of practitioners engaged for this purpose should prioritize counsellors who are either from, or specialize in serving, underserved communities, in particular BIPOC and/or LGBTQ2S communities. The roster may include practitioners or persons working in agencies in New Brunswick specializing in sexual and gender-based violence.
2. The three-year pilot program should include in its design a plan for evaluating the effectiveness of the program, including in terms of improving service for underserved students and staff.
3. The University hire a full-time Indigenous counsellor with expertise in sexual violence and trauma, intersecting inequalities and training and background in traditional healing modalities.

### **(D) TRAINING AND EDUCATION**

Although the IRP's mandate was focused primarily on policy, procedural and structural issues and reforms, the IRP feels obligated to comment on prevention, education and training given the number of times these issues came up in the consultations, especially in relation to training of faculty, staff and students.

The IRP recognizes that in the layered review process to which Mount Allison University committed in November 2020, the Mount Allison University Sexual Violence Prevention Working Group was tasked with making recommendations to the University on prevention and education. The Working Group's recommendations on Education and Prevention are attached as Schedule "C" to this report.

The IRP's recommendations are thus intended to supplement and complement any recommendations made by the Sexual Violence Prevention Working Group. The IRP limits its comments to addressing issues of education and training as they relate to the issues that arose repeatedly in the course of our consultations.



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#### **a. Mandatory Training of Faculty and Staff**

Students frequently first disclose experiences of sexual violence to those whom they trust. At a university, these persons are often faculty members. Yet faculty members are generally not well trained or equipped to deal with such disclosures. A common mistake made by faculty members who receive disclosures is to immediately ask the complainant numerous questions (effectively starting an investigation and risking the complainant making multiple statements or putting her/them in a position where they feel forced to answer). Another common mistake made by faculty is mischaracterizing or misdirecting the student in terms of a university's sexual violence policy. Faculty also often have misconceptions about their rights to information with respect to survivors or perpetrators in their classes.

A few universities in Canada (and particularly in Quebec<sup>10</sup>) have implemented mandatory sexual violence training for all persons on campus, including faculty. Concordia University has developed an online training program tailored to both faculty and staff, and students. The courses cover similar content but use different scenarios depending on the participant's status. For instance, in the faculty version of the disclosure module, there are scenarios for both student and colleague disclosure.

The importance of system-wide and meaningful training to effect deeper change has been demonstrated in other contexts. For example, in 2014, Legal Aid Ontario (LAO) committed, and then carried through on the commitment, to train every person in the organization, from the President to administrative staff, on domestic violence. Over 1200 staff and 800 lawyers were trained, which top-down and bottom-up program has been lauded as a model for other organizations.<sup>11</sup>

Mandatory training of faculty and other employees can be understood within the framework of necessary occupational health and safety training, tied to faculty members' positions of employment (and unrelated to their status as academics). In-person training should be

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<sup>10</sup> Concordia University created the program It Takes All of Us <https://www.concordia.ca/conduct/sexual-violence/training.html> which has been used with slight modifications in other universities across the province. See also McGill University's mandatory on-line training module for the entire university: <https://www.mcgill.ca/sv-education/>.

<sup>11</sup> See for example, Pam Cross, "Legal Aid Ontario Domestic Violence Training: A VAW Best Practice Model" (March 2018) at <https://pamelacross.ca/legal-aid-ontario-domestic-violence-training-vaw-best-practice-model/>



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prioritized over self-study using online modules, although an online component can be a useful tool to be completed in advance of an in-person session.<sup>12</sup>

The IRP was advised that approximately 350 Mount Allison University staff (of approximately 500 staff and faculty) receive regular training on harassment and discrimination, but training on sexual violence was limited in the past due to the capacity issues in the SHARE office. The IRP wishes to convey and commend the interest and commitment expressed to the IRP for training of faculty and staff at the University in the area of sexual violence.

### **Recommendations:**

1. Over the next two years, the University require and provide mandatory sexual violence training to all faculty and staff. The training should include training on:
  - What constitutes sexual violence under the policy
  - The structures, options, and procedures for disclosing and reporting sexual violence under the policy as it applies to student, staff and faculty complainants and respondents
  - Trauma-informed and culturally responsive responses to receiving disclosures
2. In these two initial years, the training on the University policy should be co-delivered by an external lawyer with expertise in sexual violence, sexual assault law, gender equality and administrative law/procedural fairness, who will also address the legal consequences to the University where faculty/staff mishandle disclosures.
3. Consultation participants requested, and the IRP recommends, that the training on intersectional experiences of sexual violence, including in terms of colonialism, racism and homophobia, be delivered or co-delivered by a trainer with lived experience.

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<sup>12</sup> A study of 167,424 first-year students across America found that online sexual assault prevention education *before* a student arrives—when they are more willing to comply with requests from campus administrators and before they are confronted with, for example at a frosh party involving alcohol—is effective at changing behaviour, particularly in areas of fostering positive social norms and bystander intervention. The university should still provide skills-based training and additional awareness training throughout the year. See Daniel Zapp et al., “Exploring the Potential Campus-Level Impact of Online Universal Sexual Assault Prevention Education” (March 2021) 36(5-6) *Journal of Interpersonal Violence* NP2324-NP2345 at <https://doi.org/10.1177/0886260518762449>.



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4. In the design of the training the University should include a plan for evaluating the effectiveness of the mandatory training, identifying areas for ongoing training, and include a requirement that such reviews are conducted every 3 to 5 years and reported to the University community.

### **b. Mandatory Training of First-Year Students**

The literature on campus sexual violence confirms that a significant risk period for sexual violence is the first six weeks of the fall semester (commonly referred to as the 'red zone'), particularly in the context of drinking or other partying associated with orientation events.<sup>13</sup>

The IRP's consultations were consistent with these statistics. Students discussed significant issues of sexual violence in residence and particularly during this 'red zone' period in September and part of October. In particular, we heard about incidents of sexual violence that coincided with an important student event, "Sackvegas", that frequently concludes with parties involving alcohol (whether or not sanctioned by the event). Further, the timing of the event coincides with when orientation and other student leaders are permitted to consume alcohol for the first time following the dry period for safety during orientation.

The IRP acknowledges that the Sexual Violence Prevention Working Group has made recommendations for education and training. The IRP's recommendations below are intended to complement (and not override) any recommendations made by the Working Group. The IRP acknowledges the importance of institutions developing education and training programs that meet their own specific needs and circumstances.

#### **Recommendations:**

To address the common but extremely serious problem of sexual violence involving first-year students in the first six to eight weeks of school, the IRP recommends that:

1. All first-year students complete an online training module prior to commencing their studies and/or residence at the University. The mandatory online training should be followed with mandatory in-person workshops in the first and second semesters. For the first semester, the training should occur in the first three weeks of school, the

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<sup>13</sup> See for example Senn, Charlene Y, et al, "Sexual Violence in the lives of first-year university women in Canada: no improvements in the 21<sup>st</sup> century" (2014) 14:135 BMC Women's Health 135



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completion of which is a pre-condition to remaining in residence and/or enrolment in winter courses, including training on consent (including in cases involving intoxicated/incapacitated complainants), healthy relationships, bystander intervention, and education related to the intersecting impacts of colonialism, racism and homophobia. It is equally important that students receive thorough and repeated education regarding the University's sexual violence policy including how and where to make a complaint or disclosure, available accommodations and immediate measures under the policy, and information on what further supports and services are available. This education should be complemented by a communication plan to ensure that new members of the Mount Allison community have multiple and different opportunities to learn about the University's response to sexualized violence.

2. Safe options for attendance at these mandatory training sessions be made available for those who identify as survivors, to avoid re-traumatization or triggering.
3. If in the first-year of the mandatory training, the hiring of internal educational experts in the sexual violence office is not completed, the training should be delivered or co-delivered by skilled external experts alongside the sexual violence office staff, in order to build capacity.
4. Staff in the sexual violence office be trained on the policy by a lawyer with expertise in sexual violence, sexual assault law, gender equality and administrative law/procedural fairness. This training may be covered by the mandatory training of all faculty and staff.
5. The University simultaneously develop a plan for evaluating the effectiveness of the training every 3 to 5 years, including assessing student knowledge before and after completion of the training and a commitment to report to the community on these assessments.
6. The timing of the Mount Allison student event 'Sackvegas', that concludes with a party that frequently involves alcohol consumption, be postponed to later in the semester, outside of the 'red zone' period and only after sexual violence training for all first-year students has occurred.



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### **c. Improved Training and Support for Students in Leadership Positions in Residence**

Another area of concern that the IRP heard expressed repeatedly in the consultations related to the responsibilities imposed on, and concerns about the inadequate training for, residence assistants (RAs) and other students who support their peers in residence (such as house executives and academic mentors).

In general, consultation participants who had acted as RAs and others who had lived in residence, expressed serious concerns that young students who served in these roles (sometimes as young as 19) were not equipped in terms of life experience or training, to respond appropriately to disclosures or reports of sexual violence or to deal with high-risk situations late at night in the residences (or the aftermath of these situations). We heard comments such as “sexual violence has to be external to the RAs”. We also heard that training was limited and that there was no or limited follow-up training. We were told that there was no manual or checklist for RAs to easily access. It was clear from our consultations that not all individuals who had served as RAs had a competent understanding of the University’s sexual violence policy or where to direct a student who had experienced sexualized violence.

The IRP recognizes that RAs are a necessary and important part of running a residence and that disclosures to these young students/staff are inevitable. The IRP recommends that the University enhance the supports and training for RAs and other responsible students.

#### **Recommendations:**

To this end, the IRP recommends:

1. Enhanced and ongoing training for RAs and other students in leadership positions in residence, particularly on how to respond to and support an immediate disclosure and an in-depth understanding of the University’s policy including its procedures for reporting and disclosure, and knowledge regarding what measures are available to survivors under the policy in terms of accommodations and immediate measures.
2. Diversifying and increasing the number of staff who are responsible for responding to late night urgent calls from RAs who need timely support. Security was not identified as an appropriate resource for this purpose, since Security lack, or are perceived to lack, trauma-informed expertise in sexual violence. The two full-time staff in the new





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sexual violence office may be able to fully provide this support. Alternatively, and in addition, the University could train and engage one or two additional persons who are already on staff at Mount Allison to provide this confidential and important 24/7 support. This would help to avoid the burnout of residence staff and/or the sexual violence office staff.

### **d. Athletics**

Student athletics is an area which frequently arises in discussions of campus sexual violence. The IRP heard conflicting and different perspectives on the issue of sports teams and sexual violence at Mount Allison University.

Some participants identified various men's sports teams as problematic; others rejected this characterization as outdated and unfairly singling out sports teams from a systemic campus problem.

Some consultation participants shared with the IRP the perception that male sports teams receive a greater degree of 'soft support' from the University (such as with respect to profiling athletes, emphasis and degree of focus on particular male teams in University communications and disparate alumni fundraising that privileged male teams) in a manner that reinforces the type of gender hierarchy that contributes to cultures of sexualized violence.

We also heard differing views on the quality of the sexual violence training for sports teams and a concern that the training is perceived by some as a one-off, "check the box", approach.

Further, we heard that the focus of current education and training efforts is on certain male athletic teams, which overlooks the importance of education and training for empowering women athletes, building capacity to empower bystanders, and transforming norms through universal education.

### **Recommendations:**

The IRP recommends that:

1. Each year, all interuniversity level men's and women's sports teams receive mandatory sexual violence education and prevention training that focuses on



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understanding sexual violence, consent, resistance, healthy relationships and bystander training and the University policy, with a specific focus on interactions and contexts that arise in university sport and the relationship between sports based gender hierarchies and the cultural norms that contribute to the perpetuation of sexualized violence.

2. For the next two years, training on sexual violence be co-delivered by a third-party contractor expert in delivering training to sports teams.
3. The training occur in the fall, with follow-up training scheduled for early in the winter term.
4. Options or accommodations for attending the training be available for those students who identify as survivors or intergenerational survivors.

### **e. Resilience and Mental Health Training and Support for Faculty and Staff**

As discussed above, the risk of burnout and vicarious trauma is significant for persons who are exposed to disclosures and reports of sexual violence. Not only are burnout and vicarious trauma unhealthy for the University staff in question, they can also lead to an unhealthy work environment with direct impacts on survivors and the university community generally.

#### **Recommendations:**

As set out above, the IRP recommends that:

1. The University should provide annual training for the staff in the sexual violence office and other staff exposed to disclosures and reports of sexual violence, on vicarious trauma and mental health resilience. One day per term should also be devoted to professional development, collaboration, peer support and resilience building for these staff members. Reserving this time per term is essential, since too frequently staff repeatedly exposed to trauma do not realize its impact until it's too late.



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## **(E) POLICY AND PROCEDURE REFORM**

The Mount Allison University Sexual Violence Prevention and Response Policy 1006 was first approved on May 17, 2016, and has been revised twice since, first in July 2020 and then, in January 2021, to implement interim changes to address the concerns raised by community members in November 2020. The interim changes have been in place pending the release of the IRP's report.

The University's current Sexual Violence Policy has some strengths but also a number of significant weaknesses, which, as discussed at the outset of this report, contributed significantly to the climate of mistrust of the SHARE office.

The strengths of the existing policy include its recognition at various stages of the complaint process of the rights and interests of complainants as well as respondents. For example, the policy confirms the rights of both the complainant and respondent to receive a confidential copy of the report of an investigation into a complaint, as well as a copy of the written decision concluding whether there was a breach of the policy and any corrective action taken. Another strength of the policy is the flexibility and authority granted to the University to impose "interim measures" on a respondent following a disclosure by a complainant, rather than limiting this option only to cases where a complainant has filed a formal report and triggered an investigation. This strength will be discussed further below.<sup>14</sup> Mount Allison's collection of statistical data is also commendable.

A significant flaw in the policy, already discussed in section A(i) and (ii) above, is the conflict of interest in which the SHARE Advisor was placed by tasking her with overlapping functions and roles, as support person, survivor advocate, mediator, and decision-maker. Another significant weakness of the policy that is reflected in the concerns raised by community members in the IRP's consultations as well as in November 2020, include the policy's unclear reference to and reliance on "informal resolution" as an available process, which appears to have encompassed mediation, interim measures and restorative approaches.

The January 2021 policy update indicates that the University intends to revise the sexual violence policy following the completion of the work and recommendations of the IRP and the Sexual Violence Prevention Working Group. This is a good approach. We recommend

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<sup>14</sup> Other strengths of the Policy include its scope, in which incidents of sexual violence off-campus are caught by the policy provided the University has an interest (e.g. the incident involves two students); and complainant amnesty/immunity for violations involving drug and alcohol use in cases of sexual violence.



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that the entire policy be reviewed and revised, including for example the purpose and limitations sections (which contain provisions not related to purpose or limitations) and definitions and terminology (for example with respect to consent and capacity to consent, which would benefit from updating and a clearer confirmation of a standard of communicated consent).

The IRP report will address some, but not all, of the areas of the policy that would benefit from review and revision. The IRP's focus in its consultations and preparation of this report was not on a line-by-line review of the Policy, but on broader practice, policy and structural issues to improve institutional responses in the future.

This section of the IRP Report will address recommended additions or changes to the sexual violence policy or implementation of the policy. Our discussion of the issues and recommendations is organized in a manner that addresses these issues in the order that they would generally arise in the course of an ordinary campus sexual violence complaint as follows:

1. Centralized office for disclosures and reports
2. Policy direction to faculty and staff who receive disclosures
3. Clear information on resources for respondents
4. Scope of the policy - removal of limitation period
5. Anonymous reports
6. Clear delineation of the options for survivors and removal of "informal resolution" as an option and process under the policy
7. Who decides what: clear delineation of what decisions are made at various stages and by whom
8. Enhanced and structured process for immediate measures
9. No permanent non-disclosure agreements
10. Alternative resolution
11. Formal report: who investigates and who decides breach
12. Trauma-informed and human rights approach to providing the parties with the investigation report and decision
13. Who decides corrective action for students and on what criteria
14. Clarifying the process, criteria and decision-maker(s) for appeals
15. Timelines



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### **1) Centralized office to receive disclosures and reports**

As discussed in section A of this report, all disclosures<sup>15</sup> and reports of sexual violence should be processed through a centralized sexual violence office at Mount Allison University with dedicated staff providing information, resources and support to survivors/complainants.

Students or staff may be supported in the process by a person other than a sexual violence staff person (e.g by an elder, a trusted staff member, or even a representative of a partner agency should Mount Allison develop and maintain such partnerships). However, the intake forms and process must still be processed through the centralized office.

The January 2021 interim update to the sexual violence policy and procedure permitted students to disclose/report to an external agency, Crossroads for Women, or an internal acting facilitator. For survivors, the role of these persons was to explain the options and support them in navigating the option they choose. A separate facilitator assisted respondents. The IRP has been advised in these consultations that the role of facilitators as a resource for both complainants and respondents has generally been a success to date. The IRP's view is that any such success confirms the need to ensure that resource persons for each party have discrete and clear roles under the policy. The IRP was also advised that in practice, very few students accessed Crossroads for the purpose of disclosing or initiating a process under the University policy. The IRP draws no conclusions from this information, although recognizes that Covid-19 and the reduction of in-person classes and interactions (including Crossroads reducing its physical presence on campus) may have played a role.

The reliance on facilitators and an external agency to receive disclosures and reports under the interim policy represented an appropriate transition from the previous policy under which the SHARE Advisor was responsible for multiple, conflicting roles.

#### **Recommendations:**

Going forward, however, the process for disclosures and reports of sexual violence, and support for survivors in navigating the University's policy and procedure, should be returned to a renewed, renamed, specialized and properly staffed sexual violence office at the University.

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<sup>15</sup> "Disclosures" refers to disclosures to the University to obtain an institutional response, such as an accommodation.



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## **2) Direction to faculty and staff who receive disclosures**

Although we have emphasized that all disclosures and reports should be made to the dedicated sexual violence office, the reality is that initially survivors very frequently first share experiences of sexual violence with trusted faculty and others (such as RAs or academic mentors).

The revised policy should recognize this reality and provide clear direction to recipients of such disclosures as to what to do next.

### **Recommendations:**

The IRP recommends that direction be provided to all persons who receive information in confidence about an experience of sexual violence. Frequently this sharing of information with a trusted person is referred to as a 'disclosure' but in fact does not constitute a "disclosure" under the policy that triggers an institutional response. In order to better support faculty and staff, and to avoid confusion and misconceptions about the University's obligations, direction to faculty and staff should be contained in the policy or a schedule to the policy, to:

1. Validate the survivor without asking for details or assuming any role in gathering facts.
2. Ask the survivor whether she/they have support in their lives and provide them with information on supports available at the University, including counselling and the sexual violence office.
3. Ask the survivor what they want the staff/faculty member to do with this information, and explain that sharing information with a trusted staff/faculty is not a disclosure or report to the University triggering any institutional response.
4. Direct the survivor to the sexual violence office for more information on the options under the University policy.
5. Offer to connect the survivor to the sexual violence office if/when they are ready and want a response from the University, whether through an accommodation, immediate measure or investigation.



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In the section of this report on education and training, we discussed that staff and students will need to be trained on trauma-informed approaches to receiving a disclosure, and accurate sharing of information with the survivor on the University's policy.

The focus above is on ensuring that the policy is clear that except in exceptional circumstances, an initial disclosure outside of the sexual violence office will not result in action by the University. It is key for all members of the university community to understand this – without this understanding survivors may feel betrayed when the University fails to act in response to a disclosure and the University will face a persistent perception within the community that Mount Allison does not care about sexual violence. This policy direction addresses the relatively common misconception by survivors that by making an initial confidential disclosure to a faculty member or other trusted person, the survivor has “told” the University, putting the University at risk of continued criticism that it then failed to act.

The IRP notes that some universities require faculty or staff who receive disclosures to complete a form in order to track these disclosures. The IRP discussed this option and approach with consultation participants.<sup>16</sup>

One benefit of a centralized sexual violence office is that, at least in theory, that office should have a comprehensive and cross-campus understanding and analysis of the experiences of sexual violence at the University. Such information, provided of course that it is received and maintained in strict confidence, allows the University to stay on top of emerging or persistent issues, and to better develop prevention and education initiatives. A policy direction to provide information on disclosures to the sexual violence office ensures that this data is properly collected and tracked.

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<sup>16</sup> At some universities, when a disclosure is made to a university employee, those employees are required to inform the sexual violence office or advocate who will then contact the Survivor to offer support. See University of New Brunswick policy s. 7.1 <https://www.unb.ca/fredericton/assets/documents/vp/sexualassaultprocedures.pdf> ; see also University of Western Ontario for required online referral to Resource and Support Advisor following a disclosure: s. 7 [https://www.uwo.ca/univsec/pdf/policies\\_procedures/section1/mapp152\\_procedure.pdf](https://www.uwo.ca/univsec/pdf/policies_procedures/section1/mapp152_procedure.pdf) see online form: [https://uwo.eu.qualtrics.com/jfe/form/SV\\_b3NVoaPNrBAXdgg](https://uwo.eu.qualtrics.com/jfe/form/SV_b3NVoaPNrBAXdgg) . St. Mary's University requires a university employee to fill out a disclosure form for data purposes : <https://www.smu.ca/webfiles/Sexual-Violence-Referral-Form-Fillable.pdf> see s.2.4 of their policy: [https://www.smu.ca/webfiles/6-2019\\_SexualViolencePolicy.pdf](https://www.smu.ca/webfiles/6-2019_SexualViolencePolicy.pdf)



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On the other hand, while the value of a centralized office systemically tracking sexual violence on campus was recognized, there are disadvantages to a mandatory approach. In particular, concern was expressed in the consultations that survivors would simply not disclose to anyone if the confidence of the trusted recipient was breached by a mandatory duty under the policy to disclose information to others, even if in de-identified form. Another concern involved the difficulty of clearly identifying when a staff or faculty member would have a duty to provide information to the sexual violence office. For these and other reasons, until more research is done on mandatory tracking of disclosures in this way, the IRP has not recommended that Mount Allison University adopt this approach.

The IRP does, however, strongly encourage Mount Allison to ensure that its policy is clear, including in its definition of terms, that sharing of information with a trusted person is not a "Disclosure" or "Report" under the policy that triggers an institutional response.

### **3) Clear information on resources for respondents**

A procedurally fair and trauma-informed sexual violence policy and procedure should provide resources not only for the complainant but also the respondent. Further, the resources for respondents and where/how to access them should be clear in the policy.

#### **Recommendations:**

The IRP recommends that where the respondent is a student, staff at the co-ordinator level from Residence Life should be tasked with explaining the process to the respondent and assisting him/them through the process. Provided there is no conflict of interest, the respondent student may instead be assisted by another University staff person or outside agency.

Staff/faculty members may receive information and resources from a representative from their union (for unionized employees) or the human resources office (for non-unionized employees). If these options require elaboration, further consultation within the University may be warranted, since the IRP did not engage in consultation on this issue as it related to staff.





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#### **4) Scope of the policy - removal of limitation period**

Current best practices with respect to legal and institutional responses to sexualized violence recognize that unlike other experiences of harmful conduct, those who experience sexualized violence often delay reporting for a variety of reasons related to systemic barriers to reporting, and the stigma and shame sometimes imposed upon survivors. It is for the most part inappropriate to impose limitation periods for reports of sexualized violence. This is why several jurisdictions have removed limitation periods in the context of civil law and why many PSI sexual violence policies do not contain a limitation period.<sup>17</sup>

The University's current policy refers in two places to a form of limitation period for reports of sexual violence, although the limitation period appears to be a guideline rather than a hard rule.

Section 4 of the policy, "Limitations", encourages survivors to disclose as soon as possible after an incident and states that "Generally, complaints may be accepted up to a year after an incident, recognizing that it is the nature of sexual violence that a survivor may take much longer to feel safe or ready to disclose."

Section 6.3.2, which in any event must be revised, authorizes the SHARE Advisor to decide not to investigate a complaint for various reasons, including that it should be dealt with under another policy, is out of scope, is frivolous and vexatious or that the time "has expired for filing a complaint" (which language is more consistent with a strict limitation period).

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<sup>17</sup> In 2016 Ontario removed the limitation period for proceedings based on sexual assault see section 16(1)(h) of its *Limitations Act*: [<https://www.canlii.org/en/on/laws/stat/so-2002-c-24-sch-b/latest/so-2002-c-24-sch-b.html>]

In 2012 BC removed theirs see section 3(1) of the BC *Limitations Act*

<https://www.canlii.org/en/bc/laws/stat/sbc-2012-c-13/105640/sbc-2012-c-13.html>

In 2009 NB removed the limitation period for claims for damages regarding sexual assault under its *Limitations of Actions Act* see section 14.1: [<https://www.canlii.org/en/nb/laws/stat/snb-2009-c-l-8.5/latest/snb-2009-c-l-8.5.html>] In terms of university policies, to list a few examples, St. Francis Xavier University has no deadline for making a formal complaint see section 10.5 of the policy at

<https://www.stfx.ca/sites/default/files/Sexual%20Violence%20Policy.pdf>

Dalhousie University has no deadline for making a formal complain see section F2 (7):

[https://cdn.dal.ca/content/dam/dalhousie/pdf/dept/university\\_secretariat/policy-repository/Sexualized%20Violence%20Policy%20rev.%20June%202019.pdf](https://cdn.dal.ca/content/dam/dalhousie/pdf/dept/university_secretariat/policy-repository/Sexualized%20Violence%20Policy%20rev.%20June%202019.pdf)



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Some University documents, such as one of the SHARE office complaint forms, also include reference to a limitation period. This form should be revised.

### **Recommendations:**

The IRP recommends that language with respect to a specific limitation period be removed from the policy and that it be removed from any complaint forms or other documents created by the sexual violence office. The year deadline is arbitrary and is inconsistent with the policy's own recognition that survivors may need significant time before they are ready to disclose or report.

Instead, the policy should contain more general language that encourages survivors to report as soon as possible, recognizing that the decision to report can take time, and confirming that in some cases, the passage of time may prevent the University from investigating or taking action.

### **5) Anonymous reports**

During the course of the consultations, the IRP heard questions asked, and a request for clarification around, whether reports of sexual violence can be made to the University on an anonymous basis.

The University's policy is currently silent on this issue. There was also confusion about the difference between a confidential disclosure by a survivor (whether to a trusted faculty member or to the sexual violence office for accommodation and support) and an anonymous report.

Anonymous reports generally refer to reports received by an institution where the provider of the report cannot be identified, for example by email, voicemail or letter without attribution or by the attendance of a person at the office who will not provide their name. Third Party reports generally refer to reports by an identified bystander or other individual, who provides information about an incident(s) of sexual violence, whether with or without the knowledge or consent of the survivor.

Anonymous and third party reports are very difficult for universities to address. There may be a lack of sufficient information on which a university can investigate or respond, or an investigation may traumatize or detrimentally impact the agency of the survivor, who may



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not want contact with the university with respect to the incident and may not wish to participate in an investigation.

### **Recommendations:**

The IRP Recommends that the Policy include an explanation of, and the University's limited ability to respond to, anonymous and third party reports, in order to address community members' questions in this area and proactively set guidelines (and reasonable expectations).

In general, examples of the types of anonymous or third party reports that may be meaningfully investigated by PSIs, include those in which there is video or social media evidence of sexual violence, there are witnesses to sexual violence perpetrated on a person who is asleep or otherwise incapacitated, or where there have been multiple disclosures and reports, some of which by complainants who are identified.

Sample policy language on anonymous reports is attached at Schedule D to this Report.

### **6) Clear delineation of the options for survivors and removal of "informal resolution" as an option and process under the policy**

The current policy is somewhat confusing in terms of laying out the options for survivors.

### **Recommendations:**

The revised policy should clearly set out the options, which the IRP recommends are:

- (i) Disclosure (for the purpose of accommodations and supports, but without any notice to the respondent of the disclosure)
- (ii) Immediate Measures
- (iii) Formal Complaint and Investigation
- (iv) Alternative Resolution where the Respondent acknowledges harm



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**7) Who decides what: clear delineation of what decisions are made at various stages and by whom**

As noted multiple times in this report, the current policy creates many conflicts of interest in assigning a single person overlapping roles and decision-making.

The sexual violence policy prior to its interim January 2021 update, involved the following decisions that needed to be made at various steps under the policy:

1. Whether the complaint is within the scope of the policy
2. Whether interim measures should be imposed on the respondent
3. Whether the complaint should be investigated and by whom (internal or external investigator)
4. Whether an alternative (informal) resolution was appropriate
5. Following an investigation, whether the respondent breached the sexual violence policy
6. Corrective action
7. Appeal

**Recommendations:**

The IRP recommends that the revised policy emerging from this review be clear as to who makes what decision and in what form that decision will be relayed to the parties.

A significant challenge at Mount Allison is its size. As a small and relatively flat institution, there are a limited number of senior decision-makers and the risk of putting any particular staff member in a decision-making role under the sexual violence policy is that the staff person then becomes conflicted-out of performing a different role under the policy. For example, the IRP received feedback that the decision-makers on breach and corrective measures should include representation from more diverse perspectives and communities. The IRP canvassed the idea of a panel, rather than a single person, to decide corrective action in cases where there has been a finding of breach. While some preferred a panel of decision-makers, it was very difficult to identify who specifically should sit on the panel. For example, if the Black Student Advisor and Diversity Educator or Indigenous Affairs Co-ordinator were to be a decision-maker under the policy on corrective action, they could no longer be a resource for complainants/respondents and possibly other witnesses in the case in question and might also compromise their accessibility as support people more generally.



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In a relatively small school of approximately 2500 students, there was also resistance to deans or senior faculty being first-level decision-makers, since students felt this would unnecessarily divulge personal information about them and make attending classes difficult.

Having regard to these factors, the IRP recommends that the best solution given the constraints and reality on the ground at Mount Allison, is for the VP International and Student Affairs to make most of the decisions, at least for the next few years. This approach can be reassessed, if necessary, at the next policy review.

We appreciate this may place an additional administrative burden on the person in this position. However, the VP International and Student Affairs is an appropriate position for this role; many universities rely on someone in a senior administrative role to assume responsibility for such decisions, including to expel or suspend a student.<sup>18</sup>

The IRP notes that for faculty and employees, it would appear that all of the decisions below are assigned under the current policy to the Dean (for faculty) or the relevant Director (for employees), except for the finding of breach (which decision is made by the investigator), corrective action (which decision is made by the Dean/Director in consultation with Human Resources) and appeal decisions, which are heard by the Vice-President Finance and Administration (subject to the terms of any collective agreement). Since the IRP heard no concerns with respect to this issue in our consultations, we make no recommendation for change in this regard.

Accordingly, to repeat the list of decisions above, correlated with the recommended decision-maker, the IRP recommends as follows for students:

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<sup>18</sup> For example: at UPEI: Vice-President Academic & Research determines policy breach and penalty (see: [https://files.upei.ca/policy/sexual\\_violence\\_policy\\_govbrdgnl0019.pdf](https://files.upei.ca/policy/sexual_violence_policy_govbrdgnl0019.pdf)); at Dalhousie: the Vice-Provost Student Affairs (if respondent is student) determines interim measures and breach of the policy. The Senate Discipline Committee determines the penalty (see: [https://cdn.dal.ca/content/dam/dalhousie/pdf/dept/university\\_secretariat/policy-repository/Sexualized%20Violence%20Policy%20rev.%20June%202019.pdf](https://cdn.dal.ca/content/dam/dalhousie/pdf/dept/university_secretariat/policy-repository/Sexualized%20Violence%20Policy%20rev.%20June%202019.pdf)); at Mount Saint Vincent University the Associate Vice President, Student Experience, determines interim measures and sanction: <http://www2.msvu.ca/DocumentCentral/Documents/Sexual%20Assault%20%28Policy%20Against%29.pdf> ; For student respondents at StFX University, the VP Students determines sanction and they or their delegate determines immediate measures: <https://www.stfx.ca/sites/default/files/Sexual%20Violence%20Policy.pdf>)



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**Recommendations (for student respondents):**

1. Is the complaint in scope: VP of Students and International Affairs or their delegate.
2. Immediate Measures: VP of Students and International Affairs or their delegate, upon consultation with the survivor/sexual violence office, the respondent/their support person (if notified prior to immediate measures being imposed) and relevant members of the risk assessment team.
3. Appointment of Investigator: All complaints within scope should be investigated. For a pilot period the policy should define certain types of misconduct that will be externally investigated. The VP Students and International Affairs or their delegate shall appoint the investigator.
4. Whether an alternative resolution is appropriate: as discussed below, the IRP's recommendation is that an alternative resolution be carefully structured. The decision as to whether an alternative resolution is accessed shall be made with the consent of the parties. Where the parties are students, the sexual violence office and Residence Life office, will decide whether the pre-conditions for an alternative resolution are met, which decision will be confirmed by the facilitator at the outset of the process.
5. The Investigator decides whether a breach has occurred, on a balance of probabilities.
6. Corrective action is decided by the VP International and Student Affairs.
7. Appeals are determined by members of a roster of trained persons, comprised of faculty, staff and where appropriate external legal counsel who has expertise in sexual violence and gender equality, sexual assault law, and administrative law and have not otherwise advised the University on the complaint.

**8) Enhanced and structured process for Immediate Measures**

Perhaps the greatest concern or criticism of the Mount Allison University process that the IRP heard in the consultations, related to the manner in which disclosures appeared to be



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resolved informally and by “agreement” between complainants and respondents, facilitated by the SHARE Advisor and others.

We heard numerous times that disclosures were made to the SHARE office and got “lost” there or never “went past” that level. The impression was that survivors were pressured into informal resolutions or were otherwise directly or indirectly discouraged from pursuing a formal investigation.

In fact, even in the context of the revised process since January 2021, an informal process was referred to, or understood, as one in which the complainant and respondent discussed their version of events and agreed to some form of resolution, which both parties signed.

The IRP is not passing judgment on the good intentions of Mount Allison University staff who have facilitated these informal processes. We understand the impulse to try to provide concrete and immediate solutions and closure to survivors, particularly those who are in crisis, and that formal investigation processes can be re-traumatizing and may not meet the needs or goals of the survivor. Signed agreements informally mediated between complainants and respondents, however, are a problematic solution.

It also appears that in the past there may have been a blurring of different approaches, due perhaps in part to the overlapping functions and authorities of the SHARE Advisor. Efforts to accommodate the survivor, access some form of “informal” or alternative resolution, and impose interim measures, were muddled.

In the IRP’s view, immediate measures following a disclosure are an underutilized resource for PSIs and represent a different (and better) approach to addressing the immediate needs, health, safety and well-being of complainants, than the mediated agreement approach utilized by Mount Allison in the past. We use the term “immediate” rather than “interim” measures since these measures are often most effective if imposed immediately or very soon after a disclosure and they need not be “interim” to a more formal resolution.

Accordingly, the IRP recommends that Mount Allison build on the existing policy’s authority to impose measures on a respondent following a disclosure<sup>19</sup>, to create a structured, trauma-

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<sup>19</sup> The University Sexual Violence Policy 1006 (prior to January 2021) provided for “interim measures” that may be imposed on a respondent following a disclosure, as follows: “**Interim Measures:** Temporary measures imposed on the Respondent designed to protect the safety of the Complainant and/or other individuals



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informed, accountable and procedurally fair process that has the potential to meet the goals of protecting the educational/living/working safety and flourishing of complainants, protecting the procedural fairness rights of respondents, and in some or possibly many cases, avoid putting both parties through an investigation.

### **Recommendations:**

Specifically, the IRP recommends that:

1. When a disclosure is made, the complainant be advised of the option for immediate measures and the process and criteria by which such measures may be imposed; the IRP notes that in almost all cases, imposing immediate measures on the respondent will require disclosing the complainant's name and allegations to the respondent, to which a complainant will need to be notified and consent.
2. The Mount Allison Sexual Assault Response Team (SART) function as a risk assessment team, comprised of a representative from the sexual violence office, the director of Student Wellness, where appropriate other representatives from Academic Support and Accessibility, and the Vice President of International and Student Affairs or their delegate.
3. The complainant be given an opportunity to share her/their health, safety and living/education needs and concerns with the Sexual Assault Response Team and/or make submissions to the administrator who will be determining immediate measures. The respondent will similarly be provided this opportunity either before the immediate measure is imposed, or after in a request to the VP Student Affairs to review the decision to impose immediate measures, as set out in recommendation #7 below.
4. The VP International and Student Affairs or their delegate be the decision-maker that determines immediate measures. (The imposition of immediate measures may be

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involved in a Disclosure or Complaint. These interim measures are instituted... at any point following the Disclosure or Reporting of an incident of sexual violence, and prior to any finding or determination being made under this policy. Interim measures... take into consideration the severity of the allegations and the Complainants desire to restrict access to disclosed information. Examples of interim measures include, without limitation, a no contact order, trespass or restricted access order, suspension, exclusion from social, athletic or other extra-curricular activities, limiting access to services or facilities, or other safety measures."





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significant for a respondent student. The decision should be made by a senior member of the administration).

5. The University policy should clearly set out the criteria for imposing immediate measures on a respondent student. Generally, such criteria would include:
  - To protect the safety, security or academic or employment well-being of the complainant or other member of the Mount Allison community
  - To address any risk posed by the respondent to the safety of the complainant and/or university community
  - To maintain confidentiality and/or the integrity of a Mount Allison University investigation or anticipated investigation
  - To discourage or prevent retaliation
  - To minimize disruption to the learning, residence or working environment at Mount Allison University
  - To maintain and build community trust and confidence in Mount Allison University and its responses to sexualized violence
  - To maintain and promote a campus environment in which sexual violence is not tolerated

The criteria may also include:

- The wishes and needs communicated by the complainant
  - The views of the respondent, if available, including any consent to immediate measures
  - The nature and seriousness of the alleged conduct
  - The impact of the conduct on the complainant and/or on the Mount Allison community
  - The impact of the proposed measures on the respondent, and
  - Whether the respondent is in a position of trust or authority
6. To ensure procedural fairness, the respondent student must be given an opportunity to make submissions on the imposition of immediate measures, either before they are imposed or after, depending on the case and the urgency of the needs of the complainant and/or the University community.



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7. Where immediate measures are first imposed without prior notice to the respondent, the VP International and Student Affairs shall review any immediate measures following receipt of submissions from the respondent, and maintain or adjust the measures as necessary/appropriate.
8. The VP International and Student Affairs or delegate shall provide reasons to the respondent student for the imposition of immediate measures (this can be in the form of a letter), which sets out the measures imposed, the information relied on in imposing those measures, and the reasons for the decision.
9. At any time, the complainant or respondent may request a re-consideration of the immediate measures on the basis of a change in circumstances.
10. Consent to the imposition of immediate measures by a respondent does not represent an admission by the respondent to the reported conduct. A request for the continuation of immediate measures by the complainant does not represent an agreement to permanently forgo a formal investigation by the complainant.
11. Immediate measures may remain in place until the respondent student graduates, on consent of the respondent.

Finally, it is noted that the VP Student Affairs is an appropriate decision-maker since the person in this position should properly have access to any prior history or reports involving the complainant and respondent. In particular, prior documentation or history involving the respondent, including prior history that would suggest that the respondent may need mental health supports, is relevant to the risk assessment and the substance and process for imposing immediate measures on the respondent.

### **9) No permanent non-disclosure agreements**

Another area of serious concern directly related to the dissatisfaction with informal resolution processes expressed in the consultations, was that survivors who engaged in informal resolution processes were asked or required to sign sometimes onerous agreements, whether in the form of mutual no contact orders or agreements not to discuss the sexual violence they experienced. The IRP not only heard many expressions of concern about these “NDAs” but reviewed copies of sample documents of this nature in the case



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files, including a letter which threatened the complainant with discipline if she breached the agreement to maintain confidentiality and/or breached a no-contact term.

PSIs may properly require that parties to an investigation maintain confidentiality in the investigation. The purpose of such confidentiality agreements is to maintain the integrity of the investigation, prevent retaliation or ostracism or other social dysfunction in the learning and living environment while the investigation is underway, and to protect the confidentiality of information disclosed in the investigation process. In other words, neither a respondent nor complainant should be able to reveal or publicly discuss information that they only came to know due to their participation in an investigation.

It is another matter altogether, however, for survivors who disclose or report to be subject to terms that silence or appear to silence them and/or restrict their movements rather than the respondent's movements.

In the course of the consultations, the IRP was reassured, and indeed accepts, that these agreements or terms are a thing of the past. Nevertheless, out of an abundance of caution, the IRP recommends that:

### **Recommendations:**

- Mutual no contact orders should not be imposed, except in exceptional circumstances.
- Survivors should not be told that they cannot share their experiences. During an investigation, survivors may be warned that speaking widely may fundamentally taint the investigation and/or subject them to consequences in defamation, but their experiences are their own to tell or maintain in confidence.
- Where immediate measures are imposed on respondent students, the affected complainant should not be prevented from discussing these measures as necessary to protect her/their own safety.



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## **10) Alternative resolution**

Mount Allison's sexual violence policy currently provides that "informal resolution may also include agreement by both parties to other restorative approaches such as change in living or learning arrangements."

### **Recommendations:**

For the reasons discussed in detail above, the IRP recommends that approaches to protect safety and well-being (such as changes in living or learning arrangements) should be determined and effected through accommodations or immediate measures overseen by the VP Student Affairs.

In some cases, however, a survivor may not want immediate measures imposed on a respondent and/or may want an approach that is "restorative". It is critically important, however, that alternative approaches not repeat the mistakes of the past, where an alternative approach becomes, or is perceived to be, a way to quickly resolve the complaint by "agreement", without adequate protections for the survivor.

The IRP recommends that the revised sexual violence policy provide that where an alternative approach is requested by either party, a precondition to, or requirement for, accessing these approaches is an acknowledgement of harm by the respondent. A precondition is also voluntary, informed consent by the complainant and respondent to participation in the process. Finally, particularly given the skill level that is required to facilitate an alternative process in a manner that avoids coercion of either party, and the problematic slide into "mediation" in this context, the IRP recommends that for the next three years any alternative process must be facilitated by a person external to the University with experience and expertise in sexual violence and alternative processes.

## **11) Formal report: who investigates and who decides breach**

An ongoing question for many PSIs is whether internal or external investigators should investigate complaints of sexual violence (and specifically sexual assault) and whether it is the investigator who makes the finding of whether the policy has been breached, or whether the investigator's mandate is limited to making findings of fact, with a senior person within the administration making the finding of breach based on the investigator's report.



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### **Recommendations:**

The IRP's recommendation is that the person who is interviewing witnesses first-hand, should make the finding on a balance of probabilities as to whether the sexual violence policy has been breached, as well as making the findings of credibility and fact.

In addition, given the challenges of identifying appropriate decision-makers at the University, if the decision-maker on breach were to be, for example, the VP International and Student Affairs, there would be a risk that the person would be perceived to be making too many closely related decisions under the Policy and the fairness and independence of the process compromised (or perceived to be compromised).

The IRP notes, however, that at some institutions a senior administrator is given authority to review the investigator's report and seek further information before accepting the report, so as to address cases where the investigator, for example, misunderstands the policy, misses context specific to the institution or otherwise submits a report with substantial gaps. Mount Allison may consider building this flexibility into its revised policy. For example, adding language to allow for the following:

- The VP Student Affairs may seek further information or clarification from the Investigator before accepting the Investigator's Report; and
- Any additional information or clarifications relevant to the Investigation provided to the VP Student Affairs by the Investigator, or any additional findings, shall be communicated to the parties in writing by the Investigator and, where appropriate, the parties shall be given an opportunity to respond.

In terms of who should conduct the investigation, during the interim period since January 2021, and with a view to building trust, Mount Allison committed to retaining external investigators for all sexual violence reports. While the reliance on external investigators for all investigations during the interim period was a sound decision and approach, in the IRP's view, it is not necessary for all sexual violence complaints to be investigated externally on a permanent basis moving forward. Further, it is important for Mount Allison to continue to build capacity internally for sexual violence investigations.

The IRP recommends that for the next two years, Mount Allison continue to hire external investigators to investigate all reports of sexual assault. The concerns raised by consultation



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participants about representativeness of decision-makers can be addressed in part by ensuring that the roster of qualified external sexual violence investigators include persons who are BIPOC and/or LGBTQ2S.

The IRP further recommends that Mount Allison create a roster of internal investigators to investigate other forms of sexual violence. The roster of internal investigators should have a demonstrated understanding of the dynamics of sexual violence, rape culture, rape mythologies, intersecting oppressions, trauma informed interviewing techniques, practices in cultural humility and/or training on racial and cultural bias, and experience or training in investigations. The roster of internal investigators should also receive ongoing training provided by Mount Allison. The roster of internal investigators may include interested faculty members with the requisite expertise and should also prioritize persons identifying with underserved communities.

## **12) Trauma-informed and human rights approach to providing the parties with the investigation report and decision**

In the introduction to this section of the report on policy reform, we supported as a strength of the policy that the complainant and respondent each receive a copy of the investigation report.<sup>20</sup> This practice supports a human rights approach to the sexual violence process, where the complainant as well as the respondent have rights and interests as parties. It is expected that any copy of the investigation report provided to each party will be redacted of identifying information of any other person and that each party will be required to maintain the report in confidence. A breach of this confidence (e.g. by distributing parts of the report to other students in residence) may constitute disciplinable misconduct.

### **Recommendations:**

From the perspective of trauma-informed best practices, however, we encourage Mount Allison to be mindful of *how* and *when* that information is shared and to delineate with whom the complainant and respondent may themselves share information. In our view, the parties may share the outcome of the investigation with their trusted circle of support, but should be discouraged from broader dissemination. In terms of receipt and review of the

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<sup>20</sup> The IRP assumed that this provision of the Policy accords with New Brunswick privacy legislation and notes that in other provinces, including Ontario and BC, student complainants and respondents are provided with copies of the investigation report at many, if not most, PSIs.



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investigation report, it must be remembered that this can be upsetting and destabilizing to both parties. It is recommended that the report not be delivered by email, but that students be required to attend in-person to receive it with their Mount Allison designated support person or another person of their choice. The staff person providing the student(s) the report should be prepared to answer questions about the content of the report, the implications of the finding, available supports (e.g. counselling or other supports), and the process, including (as appropriate) how to make submissions on corrective action and/or to appeal. It is further recommended that the report generally be provided in hard copy and that parties not receive a digital copy.

### **13) Who decides corrective action for students and on what criteria**

The persons who decide corrective action at Mount Allison must not have been involved in the investigation or have performed the role of support person for either the complainant or respondent. Under the existing policy, the SHARE Advisor in consultation with the Director of Student Life decides sanction which, as discussed, put the SHARE Advisor in a conflict of interest.

Earlier in this report we described the consultation discussions with respect to whether an individual or a panel should determine corrective action. The IRP has concluded that having regard to the size of the university, the importance of maintaining the distinct and important roles served by various individuals within the University, and the high priority placed by almost all consultation participants on confidentiality and privacy, the decision-maker on corrective action needs to be an individual and not a panel.

Two possible positions within the university are appropriate decision-makers on corrective action for students. These positions are either the Director of Student Life & International Services or the VP, International & Student Affairs.

#### **Recommendations:**

The IRP recommends that the VP, International & Student Affairs determine corrective action. There are a number of benefits to the person in this position assuming this decision-making role, including that an administrator at this senior level should be involved for sanctions at the more serious end of the spectrum, such as campus ban, suspension and expulsion. As well, the centrality of the position allows Mount Allison to have a finger on the



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pulse of the forms of sexual violence reported at the University and to have some oversight over consistency in decision-making.

To address the potential administrative load on the VP, however, Mount Allison could consider in its policy review permitting the VP to assign a delegate to make the decision for certain forms of misconduct short of sexual assault, such as, to use one example, a case involving misogynist graffiti in a residence dorm.

The current Mount Allison policy does not provide any criteria for determining corrective action. The IRP recommends that the revised policy provide some direction to the decision-maker in this regard.

In delineating criteria for deciding corrective action, many PSIs focus on the role of the university in ensuring the needs and flourishing of the complainant and protecting and enhancing the university community, rather than punishment of the respondent. Examples of criteria from other policies include:

- The sanction or remedy sought by the complainant
- The University's role as an educational institution
- The nature and severity of the incident
- The impact of the conduct on the complainant's continued education (or employment) at the university
- The circumstances necessary to promote the complainant's ongoing engagement with education and/or employment at the university
- The impact of the conduct on the university community
- The University's commitment to combating sexual violence on campus
- The University's commitment to reducing the barriers to reporting
- The principle of progressive discipline

Another good practice which is not currently explicitly reflected in the Mount Allison existing policy is to permit the complainant and respondent to make submissions on corrective action before the decision is made. The timelines for these submissions following the decision on breach should be short.

Finally, the current policy confusingly makes reference to the Director, Student Life acting upon the findings in an investigation report "in accordance with the Student Code of Conduct





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(non-academic)", while the Student Code of Conduct provides that incidents of sexual misconduct "are not adjudicated under the Student Code of Conduct..." (s.6.1).

The IRP recommends that the reference to the Student Code of Conduct in the sexual violence policy be removed, and that in both the sexual violence policy and the Student Code of Conduct there are terms that confirm that for incidents involving sexual violence, the sexual violence policy take precedence, and the incidents will be determined entirely under the sexual violence policy.

### **14) Appeals**

The existing Mount Allison policy provides that the "decision" (presumably both breach and corrective action) "may be appealed by either party to the Vice-President responsible for the administration of this policy, Student Affairs (in student cases) or the Vice-President, Administrative (in employee cases)".

#### **Recommendations:**

The IRP supports the existing policy providing a right of appeal of breach and corrective action to both complainants and respondents. The IRP recommends that this approach be maintained.

In terms of improvements to the policy as it relates to appeals, the IRP recommends that:

- Appeals should be limited to egregious error and errors of procedural fairness. An example of a limited right of review or appeal for students is as follows:
  - i. There was a serious procedural error that caused prejudice to the party seeking the appeal
  - ii. The investigator's decision as to whether a breach of the policy occurred is clearly unsupported on the basis of the findings of fact contained in the investigation report
  - iii. New facts relevant to the final determination are available, that were not available during the investigation, or
  - iv. The discipline or remedial measures are unreasonable.



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- For greater clarity, subject to the limited review/appeal rights above, the IRP's recommendation is that no *de novo* appeal (fresh adjudication) be available in sexual violence cases involving students.
- The appeal should be to a panel, rather than one person.
- The VP Student Affairs is an appropriate person to sit on an appeal panel, however the IRP at this time is recommending that the VP Student Affairs determine corrective action at first instance, which means other senior faculty or staff need to be assigned to the appeal panel.
- For the next two years, the panel should be comprised of three persons, being a composition of senior administrator or faculty members and/or a lawyer who has not otherwise provided advice to the University on the case and who has expertise in sexual violence, sexual assault law, gender equality and administrative law/procedural fairness. A lawyer is recommended in cases where the appeal is on the basis of procedural unfairness. The University may wish to use legal counsel who are not part of the firm that provide general counsel advice to the University.
- The review/appeal may be in writing only or, at the request of a party, the panel may also convene an oral hearing. If the panel convenes an oral hearing upon the respondent's request, the complainant should not be compelled to make submissions. If the complainant chooses to make submissions, necessary supports and aids should be offered to her to facilitate her participation (e.g she should be permitted to make her submissions virtually rather than be required to be in the physical presence of the respondent).

### **15) Timelines**

The Mount Allison sexual violence policy provides that "Typically, the investigation and report will be concluded within (30) working days of the appointment of an investigator."

#### **Recommendations:**

The IRP recommends that the University's revised policy continue to include timelines for each stage of the process: review of immediate measures, investigation, submission on



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corrective action, timeline to file an appeal, timeline for release of appeal decision after hearing of appeal.

It is acknowledged that it is difficult to impose strict timelines in sexual violence policies, particularly for the investigation and report, since each investigation is unique and may require more or less intensive work in terms of interviewing witnesses and collection of documents.

Nevertheless, it is important that, like the current policy, the revised policy include an intended timeline for the investigation, since this sets expectations for the investigators to meet. When investigations drag on, complainants and respondents are kept in limbo and uncertainty, which state can be very stressful and destabilizing for all involved. At the same time, the language on timelines should be qualified and complainants and respondents should be given realistic expectations that timelines may be extended.

Timelines for other steps, such as for submissions on corrective action, and requests for review and appeal, may be more strictly adhered to unless fairness demands otherwise.

### **(F) EVALUATION OF CHANGES IMPLEMENTED**

Throughout this Report, the IRP has inserted recommendations that changes implemented by Mount Allison in this review process be evaluated, with an evaluation plan built into the plans for change at the front end. The evidence base from such evaluation mechanisms is critical to achieving effective change. In the IRP's opinion, universities that undertake research and evaluation (and in so doing, pursue transparency and accountability), will continue to serve as leaders in Canada on best practices in response to campus sexual violence.

### **(G) OTHER ISSUES**

#### **a. Revising the University's Sexual Violence Intake and Complaints forms**

While perhaps an obvious logical next step, the IRP notes that alongside policy and procedure change under the sexual violence policy, Mount Allison's sexual violence intake and other forms will need to be updated and revised to reflect the policy changes.



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### **b. Collection and publication of data**

The Mount Allison policy requires that “annual statistics on reported incidents of sexual violence on campus” be maintained for the purposes of community education and legislated reporting. The data must, of course, be maintained in a form that will not identify any individual community member.

For over five years, Mount Allison has maintained these statistics, on both disclosures and reports and general information about the actions taken in response to the disclosures and reports.

The IRP commends Mount Allison for its collection of disaggregated and non-identifying statistics, which are better and more comprehensive than seen at many institutions.

It was not clear to the IRP whether these statistics are easily accessible or available to the University community. The annual and visible publication of statistics (provided they are not identifying) is an important step towards transparency, accountability and shifting the perceptions around institutional inaction. Mount Allison should continue to collect and publish data on sexual violence disclosures and reports and ensure that the data is as accessible as possible, provided the data will not identify any individuals.

Consistent with the recommendation above for rigorous evaluation of the training, education and policy initiatives undertaken, the IRP also encourages Mount Allison to publish the results of these evaluations.

### **c. Communications by the University**

Another area where the IRP heard a lot of feedback from participants, particularly students, was the perception that there is inadequate communication from the University on sexual violence related issues and incidents.

The IRP acknowledges the challenges faced by universities in issuing communications about sexual violence. PSIs have privacy law obligations to students and staff which limit what institutions can say. There is also a concern that issuing bulletins about incidents of sexual violence is not trauma-informed, inflames panic and fear, and does not achieve the objective of establishing that the University is *doing* something and takes sexual violence seriously.



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There is no easy solution to this conundrum. One approach that may improve matters, however, is for the institution to avoid general and unspecified statements about Mount Allison University's commitment to preventing sexual violence, and instead focus its communications (as it has done in and following November 2020) on the connection between its commitments in this regard to specific projects, initiatives and services and available supports which evidence that commitment. As already noted, adequate knowledge and understanding of the policy and resources available is critical to improving perceptions in the community of the University's response to sexualized violence.

### **d. Prohibition on or regulation of faculty-student relationships**

Faculty/student relationships were not the focus of the information participants brought to the consultations, although there were some references to incidents in the past, involving or allegedly involving persons who are no longer staff or faculty and some suggestion of dating/intimate relationships between faculty and students.

That said, Mount Allison is seeking to assume best practices and a leadership position arising out of this independent review. With this in mind, a number of PSIs across Canada are adopting policies that either prohibit or regulate faculty-student sexual relationships. In the United States, a number of Ivy League schools have prohibited faculty-student relationships for decades. For example, Harvard, Yale and Stanford have long had such policies<sup>21</sup> and in 2015, Harvard passed a blanket prohibition on faculty having sexual or romantic relationships with undergraduate students regardless of whether the faculty is in a supervisory role. In Canada, McGill prohibits teaching staff from engaging in sexual relations with a student over whom the staff has academic authority, may influence the student's progress or collaborates with the student. Other universities, like Concordia, carefully regulate such relationships to protect students and avoid conflict of interest.

Most universities rely on their conflict of interest policies to address faculty-student relationships. However, these policies are not accessible to students and don't set sufficiently clear standards. A clear standard in the sexual violence policy signals to students that if they are subjected to unwanted attention, they don't need to doubt themselves or prove to the university that the conduct was not consensual.

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<sup>21</sup> See for example: [https://www.fas.harvard.edu/files/fas/files/fas\\_sexual\\_and\\_gender-based\\_harassment\\_policy\\_and\\_procedures-1-13-16.pdf?m=1453319539](https://www.fas.harvard.edu/files/fas/files/fas_sexual_and_gender-based_harassment_policy_and_procedures-1-13-16.pdf?m=1453319539); <http://catalog.yale.edu/dus/university-policy-statements/teacher-student-consensual-relations/>; <https://adminguide.stanford.edu/print/chapter-1/subchapter-7/policy-1-7-2>



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The IRP encourages Mount Allison as part of its policy review, to consider addressing faculty-student sexual relationships in its sexual violence policy as a matter of emerging best practice. A very strict and clear policy (as in the example set out below) can achieve fulsome protection of students while leaving limited space for non-exploitative relationships that must be disclosed to the university. (A concern with outright bans is that they can have the effect of targeting sexual minorities.).

A sample policy approach is attached at Schedule E. The sample policy prohibits any potentially exploitative relationships, discourages all faculty student relationships, and imposes a mandatory reporting obligation on faculty which is more flexible than an outright ban but protective of students (and faculty) by requiring disclosure and the management of any conflict of interest.

## CONCLUSION

The leadership of Mount Allison University in policy and program change, and the proposed and ongoing research and evaluation by Mount Allison (and others) in the area of sexual violence prevention and response, are critical to combatting sexualized violence on campus and creating structures that build trust and accountability and respond fairly and appropriately when incidents of sexual violence do occur.

The IRP is grateful for the opportunity to have worked with Mount Allison University on this consultation and review process, and for our participation in the collective work of addressing and eliminating sexual violence on campus.



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### **SCHEDULE A**

#### **Content Available on Mount Allison University's Website**

[https://mta.ca/Community/Governance\\_and\\_admin/Sexual\\_violence\\_prevention\\_action\\_plans/CCLISAR/CCLISAR/](https://mta.ca/Community/Governance_and_admin/Sexual_violence_prevention_action_plans/CCLISAR/CCLISAR/)

*Following a search process, the University selected the [Canadian Centre for Legal Innovation in Sexual Assault Response](#) (CCLISAR) to conduct a comprehensive review of our sexual violence policies, procedures, practices and resources.*

*CCLISAR is a respected and experienced consulting firm that has experience working with universities in the area of sexual violence prevention and support. The updates and content below are provided by the Independent Review Panel and CCLISAR and are posted here for the benefit and convenience of the Mount Allison community.*

#### UPDATES FROM THE INDEPENDENT REVIEW PANEL

*Feb. 18, 2021*

We are pleased to introduce ourselves as the Independent Review Panel (IRP) tasked with conducting a comprehensive review of the University's sexual violence policies, procedures, practices, and resources. Our review will include consideration of the ways in which the structure or implementation of the University's sexual violence policies and procedures may have fallen short of their purposes in the past, with a view to implementing change in the future. If you want to learn more about us, [brief biographies](#) can be found below.

We are working with the Canadian Centre for Legal Innovation in Sexual Assault Response (CCLISAR [www.cclisar.ca](http://www.cclisar.ca)), which Mount Allison has engaged to undertake this review.

At the end of the review process, our recommendations will be publicly available and published on CCLISAR's website.

#### **Consultations — February and March 2021**

Central to our review process is hearing from you.

We will be hosting Zoom consultations in the months of February and March 2021. The consultations will include interviews with individuals and groups at MtA, including representatives of student groups, members of the Sexual Violence Prevention Working





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Group, staff of the University departments that respond to sexual violence, faculty members, and unions.

We will also ensure that interested individuals, whether students, staff, or faculty, will have an opportunity to speak with us. Lucrece O'Neal ([loneal@mta.ca](mailto:loneal@mta.ca)) will be co-ordinating a sign-up process for this purpose. Please e-mail her if you wish to meet with us.

We also encourage University community members to provide us with thoughts and comments by e-mail at [MountAllison@cclisar.ca](mailto:MountAllison@cclisar.ca). The e-mail communications will be treated in confidence.

Since the focus of our review is on improving institutional practices and procedures for responding to disclosures and reports of sexual violence on campus, we have specific consultation questions related to the policies and procedures. Examples of some of the questions that we may be exploring are listed below.

Two of the meeting dates on which we will be holding consultations are March 2 and 5, 2021.

Following the consultations, the Panel members will consider what we have heard, and prepare a preliminary report with recommendations. This preliminary discussion document will be discussed with an "Expert Advisory Group" comprised of the panel members, external experts, and a small group of persons from Mount Allison, including the co-chairs of the Sexual Violence Prevention Working Group.

### **Timeline**

The timeline for the Independent Review is as follows:

- January/February 2021 — review of policies, procedures, and other documents and gathering of preliminary background information
- February/March 2021 — consultations with the MtA community, held by Zoom
- April/May 2021 — development of preliminary recommendations for review and discussion by the Expert Advisory Group
- June 2021 — publication of the IRP Report

We very much look forward to meeting with MtA community members in the coming weeks.

Yours very truly,

Joanna Birenbaum, Elaine Craig, Myrna McCallum



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## SAMPLE AREAS AND QUESTIONS ON WHICH WE WILL BE SEEKING THE INPUT OF THE UNIVERSITY COMMUNITY MEMBERS CONSULTED

### **Dynamics of sexual violence at Mount Allison**

- We are interested in hearing your perspectives on the what/where/by whom of sexual violence on campus (e.g. dynamics in residence or at certain events).

### **Barriers to Disclosure or Reporting that relate to institutional policies, procedures, structures at MtA**

- We recognize that there are many barriers to disclosing or reporting sexual violence in our society. We would like to hear about any specific barriers to report related to the MtA policy, procedure, or institutional structures or responses.
- Are there policy/procedure specific issues as they relate to specific social locations or identities, such as sexual orientation, race, indigeneity, ability, etc.?

### **Accommodations, Informal Resolution, and Interim measures following a disclosure or report of sexual assault**

- What are MtA's community members' views on MtA's use of accommodations, informal resolution and/or interim measures in response to disclosures of sexual violence?
- Do informal resolutions and/or interim measures address complainants' needs and circumstances? Are they fair to respondents?
- To what extent are or should interim measures or information resolutions be confidential?
- Are mutual no-contact orders imposed? What has been the effect of those orders?

### **Training, Investigation and Adjudication**

- What areas of concern have been identified with the investigation and hearing (adjudication) of reports of sexual violence? We are interested in hearing all views, and including the views of those who have made a report, responded to a report, supported a complainant/respondent, or investigated/adjudicated such a report.
- What training is provided to investigators, adjudicators, or others who administer the sexual violence policy?



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### **Understanding of the Policies and Procedures**

- Is there a good understanding by students, staff, or faculty of the Sexual Violence Policy and Procedure? If there is a lack of knowledge, confusion, or misunderstandings, why is this the case and how can this best be corrected?

### **Sanctions/Remedies**

- What should be the range of appropriate sanctions/remedies for sexual violence?
- What are community members' views on the remedy or measures for respondents of residence-transfer, counselling or education, and alcohol prohibition, in cases involving student-on-student sexual violence?
- A challenge for all universities is the institution's obligation under privacy laws to maintain confidentiality of identities of the parties and any measures imposed on respondents. These legal obligations may prevent universities from making public the outcomes in sexual violence cases and from identifying perpetrators. What are MtA community members' views on how to address the sometimes competing goals of institutional transparency and accountability with respect for individual privacy?

The above represents a few of the areas of questions that we will be exploring when we are on campus. We are, of course, open to other issues and areas being identified by you and we will raise questions that are specific to each group consulted.

## **TERMS OF REFERENCE FOR INDEPENDENT REVIEW OF MOUNT ALLISON UNIVERSITY'S POLICIES AND PROCEDURES RESPONDING TO SEXUALIZED VIOLENCE**

### **Mandate**

Mount Allison University (the "University") will engage the Canadian Centre for Legal Innovation in Sexual Assault Response (CCLISAR) to conduct a comprehensive review of the University's sexual violence policies, procedures, practices and resources.



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### **Scope of review**

This review will assess the implementation of the University's sexual violence policy and procedures, along with other University policies and procedures with which they intersect, in order to ensure that the University has effective and defensible practices and procedures that are:

- responsive to those who report experiences of sexual harm
- trauma-informed
- procedurally fair to complainants and respondents.

The review will consider policies and procedures as they relate to both students and staff/faculty. The review will include consideration of the ways in which the structure or implementation of the University's resources, policies and procedures may have fallen short of their purposes in the past, with a view to implementing change in the future. The Independent Review Panel that undertakes the review will produce a report that will summarize the review process undertaken and the information gathered (in anonymized form) and make recommendations aimed at improving the University's response to incidents of sexualized violence within its community. This report will be public.

### **Description of the review process**

The review process will involve four stages.

**Stage 1.** An Independent Review Panel (IRP) will conduct a document review of the University's relevant policies and procedures as well as any other documentation and materials provided by the University or requested by the IRP (e.g. collective agreements, University communications, anonymized sample case files). This stage of the review will also include a review of other university policies on sexualized violence and relevant secondary literature and reports.

**Stage 2.** The IRP will conduct consultations with members of the University community. These consultations will be conducted during a three-day period in February and March, 2021 and will be done virtually. The focus of these consultations will be on the operation of the University's Sexual Violence Policy and any policies with which it intersects. The consultations will include meetings with any individual members of the University community, as well as any groups (e.g. departments, clubs, or other organizations) who express an interest in meeting



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with the IRP. The University will manage the scheduling and coordination of the consultation meetings.

The opportunity to participate in this consultation will be advertised by the University and meeting times will be made available to any students, staff, or faculty or other interested stakeholders who wish to participate. The President's Working Group on Sexual Violence ("Working Group") will be involved in identifying the persons and groups consulted by the IRP. In addition, bi-monthly meetings will be held by the IRP Chair and the co-Chairs of the Working Group to ensure there is no duplication in the Working Group's consultations with the IRP consultations.

The University community will also be invited, during the months of January, February and March 2021, to provide confidential written input to the IRP. The IRP will use an @cclisar.ca e-mail address for the IRP Chair for the purpose of receiving comments and information regarding the operation of the University's Sexual Violence Policy and any policies with which it intersects. This e-mail account and its intended purpose will be advertised by the University in January and February 2021.

Any comments, observations, or insights offered during these consultations or in writing will remain unattributed in CCLISAR's report. The IRP's notes, emails received through the IRP's designated e-mail account, and internal correspondence between members of the IRP will not be produced to the University or made public.

**Stage 3.** A background document identifying the areas of concern and/or improvement with the University's policies and procedures along with possible measures to address these areas of concern and/or improvement will be circulated to the Expert Advisory Group, as defined below. This group will meet for a one-day online workshop to discuss the issues reviewed and proposed recommendations in the background document. The meeting shall take place in the spring of 2021. The Expert Advisory Group will provide advice to the IRP, including as informed by the Working Group's expertise on the University and the University's student body.

**Stage 4.** The IRP will finalize its report and will provide it to the University in June, 2021.

### **Composition of the Independent Review Panel**

The [Independent Review Panel](#) will be comprised of three individuals external to the University. The Chair of the IRP will be a practicing lawyer with expertise in gender-based harm and university-related complaints processes. The second and third members of the IRP will



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include individuals with legal training and expertise in legal responses to sexualized violence. At least one of these members will be a legal academic. The other will be either an academic or practicing lawyer.

### **Composition of the Expert Advisory Group**

The Expert Advisory Group (EAG) will be comprised of the three panel members of the IRP, two additional members selected by CCLISAR who are external to the University, the co-chairs of the President's Working Group on Sexual Violence and up to five additional members of the Mount Allison University community, selected by the University. Members of the EAG from the Mount Allison community will have relevant experience in university complaints processes and/or legal processes for responding to sexualized violence (e.g. adjudication or investigation) and/or expertise regarding issues of gender-based harm. The Chair of the IRP will also chair the EAG.

The Expert Advisory Group will provide advice to the IRP on the proposed recommendations.

## **TIMELINE FOR THE REVIEW**

### **January 2021**

- Finalize terms of reference/contract
- Begin review of documents provided by University
- Compile list of relevant stakeholders for consultations (in consultation with University)
- Undertake literature review on updated approaches to trauma-informed practices and university sexualized violence responses
- Schedule first round of consultations (in collaboration with University)

### **January-March 2021**

- Complete preliminary review of the University documents and secondary literature
- IRP Chair will conduct selected one-on-one interviews with University representatives to obtain a preliminary understanding of how the policies and practices were operationalized prior to the fall of 2020
- Consultations with Mount Allison community



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### **March-April 2021**

- Preparation of background document based on interviews, consultations and policy/procedure review
- Preparation of a brief status update communications document to inform the University community on the progress of the IRP's work.

### **April-May 2021**

- Expert Advisory Group Workshop
- Follow up interviews and consultations as necessary and requested by the IRP

### **May 2021**

- Prepare and finalize CCLISAR IRP Report

### **June 30, 2021**

- Submit CCLISAR IRP Report to University

## MEMBERS OF THE INDEPENDENT REVIEW PANEL

**Joanna Birenbaum** is a litigator in Toronto with over two decades of expertise in gender equality and sexual violence. Her diverse practice in these areas includes constitutional litigation, civil sexual assault claims, employment law, human rights and workplace investigations, representing complainants in sexual history applications in criminal sex assault proceedings, defending malicious prosecution and defamation claims targeting women who have reported sexual violence, and Supreme Court of Canada appellate advocacy. Joanna also prosecutes for a regulated health college in Ontario and advises institutions and employers on sexual violence policies and procedures. Joanna was a 2014-2015 McMurtry Fellow at Osgoode Hall Law School and adjunct faculty at Osgoode (2014-2017). In addition to her private practice, Joanna is the Director of Capacity Building for CCLISAR (Canadian Centre for Legal Innovation in Sexual Assault Law Response). Joanna has published in the area of sexual violence including her most recent book, co-authored with Professor Karen Busby, "Achieving Fairness: A Guide to Campus Sexual Violence Complaints" published by Thomson Reuters (March 2020).

**Elaine Craig** is an Associate Professor of Law at Dalhousie University. She has researched and published extensively on sexual assault law in Canada. Dr. Craig is the author of *Putting Trials*



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*on Trial: Sexual Assault and the Failure of the Legal Profession* (2018 McGill-Queens) and *Troubling Sex: Towards a Legal Theory of Sexual Integrity* (2012, UBC Press). Dr. Craig teaches sexual assault law, gender, sexuality and law, and constitutional law. She has testified before Senate and House of Commons Standing Committees on proposed law reforms to the criminal law of sexual offences and is a regular public commentator on legal responses to sexualized violence. Dr. Craig is the Director of Research for CCLISAR (Canadian Centre for Legal Innovation in Sexual Assault Law Response).

**Myrna McCallum** is an Indigenous lawyer and the host of "The Trauma-Informed Lawyer" Podcast. Myrna educates on trauma informed advocacy, vicarious trauma and Indigenous intergenerational trauma through keynotes, training sessions, and customized executive coaching sessions. Prior to founding Miyo Pimatisiwin Legal Services in 2020, Myrna's extensive experience in sexual violence includes her positions as Director of Investigations at the University of British Columbia, adjudicator in the Indian Residential Schools Settlement Agreement claims process, and Crown Prosecutor with the Ministry of the Attorney General in Saskatchewan. When she is not FaceTiming her three grandchildren, educating or podcasting, Myrna is advising, advocating or conducting workplace investigations and reviews. In 2020, the Federal Department of Justice awarded Myrna their first ever Excellence in Legal Practice and Victim Support Award. You can learn more about Myrna's work in trauma-informed lawyering at <https://thetraumainformedlawyer.simplecast.com/>





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## **SCHEDULE B**

### **Recommendations from the Sexual Violence Prevention Working Group for the Sexual Violence Prevention and Support Coordinator position**

*March 15, 2021*

We envision this position as one focused on both support for survivors of sexual violence and education for the campus community around sexual violence. This position must be a permanent full-time position. As this position will be a key support person for survivors of sexual violence, the person in this position should not be involved in conducting investigations or handing down sanctions. The SVPWG group recommends more than one full-time position to adequately address sexual harassment and violence on campus. Since our mandate was to make recommendations for one position, that is what we have included in this document.

**We envision the educational component of this position to include the following components:**

- Educational campaigns/prevention about sexual violence and harassment, including (but not limited to) issues such as
  - Consensual sexual relationships
  - Healthy relationships
  - Gender-based harassment
  - Gender-based violence
  - Anti-LGBTQ+ discrimination
- Creating accessible educational content and resources that will reach students (e.g., online/social media, in person, posters, various mediums)
- Training RAs, house staff, relevant clubs and societies, relevant student groups on campus.
- Workshops and training for faculty and staff
- Creating resources for faculty and staff

In order to be effective in the educational mandate, the person in this position should be someone who can collaborate with other stakeholders. It is critical that this person have trust with various stakeholders on and off campus. The person in this position will need strong interpersonal skills, particularly for connecting with students. For education and outreach to be effective, this person needs to be well-known on campus.



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### **We would expect the person in this position to engage in the following activities:**

- Actively collaborate with students and student groups
- Actively collaborate with staff and faculty with expertise in this area
- Work with community partners around town
- Solicit regular feedback from student population
- Engage in consultation with and receive support from a small pan-university SVP advisory committee

### **For the support portion of this position, we expect this role will involve providing survivor-focussed support. This may include:**

- Attending meetings with survivor as a support person if the survivor wishes it
- Being the first point of contact for disclosures
  - Note that there should also be additional people who are trained to receive disclosures
- Provide appropriate referrals to internal/external resources
- Can advocate for survivor for action or accommodation requests

### **Education and Work Experience**

- Postsecondary degree in a field related (Strongly recommended/required)
- Formal or informal training in trauma-informed approaches
- Work or volunteer experience with sexual violence prevention
- Formal or informal training in counselling, with a preference for a candidate who is licensed by a professional external body (e.g., counsellor, social worker, etc.) and has specific experience and/or training in sexual violence prevention and response
- Work or volunteer experience with supporting survivors (e.g., sexual assault crisis centre)
- Work or volunteer experience with crisis generally
- Formal or informal education related to intersectional anti-oppression frameworks (anti-racist, anti-colonial, anti-sexist, etc.)
- Demonstration of understanding that support is needed for people other than hetero cis-women



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**To appropriately support this position, the SVPWG is also recommending the following funding and supports be made available for this position**

- Competitive salary to attract a highly qualified individual
- Funding for professional development that must be spent every 2 years (i.e. mandatory ongoing professional development)
- Funding for educational campaigns & training on campus (and other resources)
- Funding for peer support
- Position cannot be isolated – many things need to be done in relation to this work
  - As previously noted, for education and outreach to be effective, person needs to be well-known and connected on campus
  - Person needs to be well-supported in their role by the institution
- Safe neutral spot for person to work in. This person must have their own office. It should be somewhere that people can easily pop in, so not in the Wellness Centre.
- Holiday/sick day/vacation coverage
  - The role needs support for taking time off and a clear plan for coverage
- Authority to ask for accommodation (via Meighen/Wellness Centre), making classroom and personal scheduling recommendations (in collaboration with security, registrar's office, dining services, residences)
- If this person will be involved in driving students to SANE nurse or other appointments, car allowance or compensation for additional insurance
- Confidentiality both legally and on campus of this role needs to be made very clear
- Clear reporting structure for accountability.
- Support through an advisory committee that involves expertise in sexual violence

### **Supervision**

- This position should report to Director of Accessibility and Student Wellness.



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## **SCHEDULE C**

### **Sexual Violence Prevention Working Group educational recommendations about sexual violence for Students, Staff, and Faculty.**

*April 26, 2021*

The SVPWG considered educational needs for prevention of sexual violence and support of sexual violence survivors broadly in the campus community. We developed the following recommendations for student, staff, and faculty education on campus. We also want to clarify that all of the educational recommendations cannot be fulfilled by one person. As noted in the previous recommendations for the Sexual Violence Prevention and Support Coordinator, we think that Mount Allison needs more than one person involved in sexual violence prevention, education, and support. We also think that sexual violence prevention and education should be a collaborative effort with relevant staff, student groups, and external resources to adequately support the Mount Allison community.

#### **STUDENT EDUCATION**

##### **Strategies and considerations for student education**

- Mandatory online training before coming to campus (or early when on campus). See below for details.
- It would be beneficial to assess student knowledge to find out the level of understanding about sexual violence and harassment to know how to best target programming
- Realistic consent, coercion, and rejection education
- Interactive discussions, not just lectures and simplistic activities
- Feedback from student groups is necessary to make training useful and accessible
- Ongoing educational campaigns via social media, posters, brochures, workshops, etc.
  - Includes reminders of content from mandatory training to reinforce those messages
  - January refreshers for RAs and House Exec
- Formal training of peer educators (see Maven Peer Education Network at MacEwan)
- Online and accessible options for training



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- Provide open sessions anyone can attend as well as specific sessions for people who would feel more comfortable in that format (women, men, LGBTQ+, BIPOC, survivors)
- There is a concern that people would not feel comfortable speaking up when doing training within their specific group. If possible, more than one training session should be offered so there are opportunities to speak up if one person in particular is engaging in concerning behavior. If it is not possible to hold multiple training sessions, other opportunities should be presented for participants to express concerns.
- Having general training and also specialized training for specific groups – should be done in collaboration with groups
  - RAs and other residence leaders
  - Orientation leaders
  - MASU leadership
  - Clubs and Societies leadership
  - Sports teams
  - LGBTQ+ (Coordinate with Catalyst)
  - People who work with International students
  - Exchange students/MASSIE students (& people who work with them)
  - Student Interns
  - Teaching Assistants
  - Any other students in leadership positions
- Consultation with SVP Coordinator should be available to students planning events

### **Content for Student Training**

- Consent and rejection education
- Sex education
- Healthy relationships
- Safe & appropriate behavior online (e.g., dating apps, online relationships)
- Intimate Partner Violence
- Bystander Intervention Training
- Gender-based harassment
- Alcohol and sexual violence
- Date-rape drugs
- Red Dress Campaign and other education related to MMIWG



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## **STAFF AND FACULTY TRAINING**

### **Content for Staff & Faculty**

- A good starting place would be to assess staff and faculty knowledge of sexual violence and harassment to find out the level of understanding
- Training on responding to disclosures
  - Faculty can grant accommodation (does not need to go through Wellness Ctr or Meighen Ctr, but it can if student wishes it). Education for faculty on how fair and equitable are not the same thing
  - Confidentiality
  - Comprehensive list of campus resources
  - How to respond with sensitivity
  - Appropriate boundaries during/after disclosure
- Trauma-informed training for anyone who might receive disclosures
  - Understanding the types of responses to sexual trauma
  - Understanding the unpredictability of trauma responses
- Create a “Responding to Sexual Violence Best Practices Protocol” (similar to Concussion Protocol) developed in collaboration with faculty experts
- Create a best practices document for teaching and dealing with sexual violence related issues
  - Use of content warnings
  - How to appropriately frame the conversation
  - Allowing for alternatives when students are not able to be in class for sexual violence material
  - How to assess if you are qualified to have difficult discussions around sexual violence that respect student safety
  - Resources & training for handling sexual violence discussions (e.g., Dos and Don'ts)
- Training on appropriate professional boundaries with students and other staff
- Training for all security staff (including student staff) on appropriate sexual violence protocols
- Training on how to identify sexual harassment and other sexually inappropriate behavior



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- To ensure confidentiality, requests to faculty for accommodation should come from Meighen Centre or Wellness Ctr (not the SVP person).
- Provide training and written information for faculty at orientation and staff during onboarding or during mandatory workplace harassment training. Training should be developed in collaboration with SVP Coordinator and HR. There should also be regular updates and refreshers.

All training for students, faculty, and staff should be informed by anti-oppressive practices and frameworks (i.e. frameworks that are anti-racist, anti-colonial, trans inclusive, queer positive; that attend to relations of power). Collaboration with relevant staff and student groups is critical to ensure culturally appropriate and inclusive training.

### **MANDATORY TRAINING FOR ALL MTA STUDENTS AND EMPLOYEES**

Concordia and other Quebec universities have implemented mandatory training for all people on campus. We spoke to representatives from Concordia, so are using them as our specific example. They offer the training online and in person. They used a staged rollout over multiple years, beginning with students. During the initial rollout year with students, the sexual violence prevention team sought feedback and revised content. Faculty were consulted and were brought into mandatory training only after it had been pilot-tested on students.

We thought the Concordia approach was well thought out and a good model for Mount Allison. However, we thought it best that the training initially be online only to facilitate a quick rollout among students. Concordia will provide access to their training content as an example. The platform is available for use at other universities.

#### **Considerations for Mandatory Training**

- Our goal is to work toward mandatory training for all on campus. We want to use positive rewards, not punitive measures, especially at first.
- If students are completing the training before coming to campus, there would need to be appropriate content warnings as well as a note to only complete the online training before coming to campus if they felt safe and comfortable to do so.
- MTA counsellors and other relevant resources will be available to students if needed when they complete the training. Students could reach out to counsellors directly



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(state hours counsellors are available). Outside of office hour for counsellors, national and NB-based helplines would be listed as resources. Research would need to be done for appropriate resources for international students.

- If students begin the training, but stop without completing, counsellors should be alerted so they can reach out to the student to check in the following day.

The online training would be a basic training module. Content of the course will include the following:

- Basic overview of sexual violence on university campuses
- Review of university policy and procedures around sexual violence
- Review of legislation around sexual violence
- Consent and rejection education
- Intro to Bystander training
- Additional training for students who are in leadership roles, which could be online or in person

Recommendations for encouraging uptake:

- Possible rewards (e.g., t-shirts or other MTA swag) and/or punishments (e.g., access to campus events) for completion in the beginning
- Once on campus, involve residence leaders in encouraging people/providing incentives (e.g., competition, house points)
- Possibly use in-class incentives for faculty willing to collaborate

## **OTHER SEXUAL VIOLENCE CONSIDERATIONS**

### **Education for Relevant Town Businesses**

- Collaboration between university and town/local bars about sexual violence (MASU developing program) - Connect with town/gown groups
- Bystander and other training for bar staff
- Implementing code words at bars that patrons can use when in need of help





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### **Funding**

- In order to address diverse groups and increase capacity on campus, we need to have ongoing funding with a designated budget for external trainers. External training is necessary for staff to get training as well as bring external educators to campus for student educational events.
- It is important that there be ongoing funding for educational resources and programs on sexual violence.

### **Additional Resources to Consult**

- Local resources such as Southeast Sexual Assault Centre (SESAC) Sexual Violence New Brunswick, Westmoreland Albert Violence Prevention Network
- MAVEN Peer Education Network  
[https://www.macewan.ca/wcm/CampusLife/SexualViolencePreventionEducationResponse/OSVPE\\_MAVEN\\_CALL](https://www.macewan.ca/wcm/CampusLife/SexualViolencePreventionEducationResponse/OSVPE_MAVEN_CALL)
- Behind Closed Doors Training
- Bystander Intervention Training
- American List of Sexual Violence Programs on University Campuses and the level of evidence to support their efficacy <https://cultureofrespect.org/programs-and-tools/matrix/>



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## **SCHEDULE D**

### **SAMPLE POLICY LANGUAGE**

#### **Third party and Anonymous reporting**

1.1 Where a person witnesses or has reasonable concerns about an incident(s) of sexual violence, they may submit written or oral information to the sexual violence office.

1.2 A “third party report” is where information about an incident of sexual violence is shared by an identifiable person who is not the survivor/person who directly experienced the sexual violence. Where the information relates to an identifiable or identified survivor, the consent of that survivor should be sought before the information is provided to the University.

1.3 An “anonymous report” is where information about an incident of sexual violence is shared in a form that is anonymous, for example when the sexual violence office receives a written submission with no name attached to it, or a person attends the Office but will not disclose their name. An anonymous report may be made by a survivor or a third party.

1.4 The University may be unable to investigate an anonymous or third party report due to lack of information or out of respect for the individual impacted by the sexual violence who has decided not to come forward.

1.5 Examples of where the University may initiate its own investigation following one or more third party or anonymous reports includes where there is social media or other evidence documenting sexual violence and/or where persons witnessed sexual violence against a person who was incapacitated, unconscious or asleep. Where there are multiple disclosures and one or more persons has made a formal report but others have only made a confidential disclosure, the University may investigate the totality of the conduct by the Respondent, including by revealing the confidential disclosures to an investigator in the course of the investigation or by asking those who made confidential disclosures to participate in the investigation.

1.6 Where the University receives multiple third party or anonymous reports, the University may also explore what steps may be taken short of an investigation (which would require



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release of the identity or identities of the survivor(s)), such as targeted education and training, and/or increased campus security or monitoring of specified locations or events.

1.7 Where the University proceeds with an investigation following a third party or anonymous report, the survivor has the right to choose not to participate. The University will consult with that person, if they are willing, on the risks or concerns to them in response to the investigation and how those risks can be minimized or addressed. A refusal by the survivor to participate, however, may impede the ability of the University to meaningfully investigate.

1.8 The sexual violence office shall maintain data on anonymous or third party reports.

11.9 Information provided by third party or anonymous sources may inform training or education to address systemic concerns or other policy changes at the University.



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## **SCHEDULE E**

### **Sample Policy language**

#### **Sexual Relationships between Teaching Staff and Students**

##### ***Prohibition on Sexual Relations between teaching staff and students***

Sexual relations between a student and a member of the Teaching Staff are prohibited when the staff member:

- i. Is in a position of academic authority over the student
- ii. Might in the foreseeable future be in a position to exercise authority over a student
- iii. Has or may have an influence over the student's academic progress or
- iv. Collaborates academically with the student.

##### ***Other Sexual Relations Strongly Discouraged***

Sexual relations between Teaching Staff and students, in circumstances other than those described and prohibited above, are strongly discouraged.

##### ***Mandatory Disclosure***

If a member of the Teaching Staff and a student engage in sexual relations, the Teaching Staff member must disclose this engagement within 48 hours of the occurrence.

A Disclosure pursuant to this policy may be made to the Academic Vice President or to a union representative who will provide the information to the Academic Vice-President.

Upon the coming into effect of this Policy, all Teaching Staff must disclose past and current sexual relations with any current university students in a timely manner in accordance with this policy, whether or not the sexual relations occurred or commenced prior to the coming into force of this Policy.

##### ***Application to Graduate Students***

This Policy does not apply to sexual relations between graduate students who also hold teaching positions, so long as one of the graduate students is not in a position of authority over the other graduate student.

##### ***Managing the Conflict of Interest***

Where a conflict of interest has been disclosed, administrative measures will be implemented to ensure that the Teaching Staff member has no academic authority or influence over the student concerned.



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***Presumption of Sexual Violence***

Where a Teaching Staff member fails to disclose sexual relations with a student in accordance with this Policy, it is presumed that the relations are a breach of this Policy and may be investigated as sexual violence under this Policy.