

SEXUAL ASSAULT AND SEXUAL VIOLENCE

Section:	Health, Safety and Environment (HS)
Subject:	Health, Safety and Environment
Legislation:	<i>Criminal Code, R.S.C.1985, c.C-46; Occupational Health and Safety Act (RSA 2000 c0-2)</i> and related legislation.
Effective:	February 4, 2016
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APPROVED: _____
President and CEO

POLICY

The policy of the Board of Governors is to ensure that SAIT neither accepts nor tolerates violent acts or threats of violence in its workplace or learning environments. In particular, SAIT will neither accept nor tolerate any violent acts or threats of violence by members of the SAIT community while on SAIT premises or at SAIT-sponsored events or activities.

PROCEDURE**PHILOSOPHY**

SAIT supports survivors of sexual assault and sexual violence and will hold members of the SAIT community who commit acts of sexual assault and sexual violence accountable to ensure SAIT's orderly function and to protect the health and wellbeing of the SAIT community.

DEFINITIONS

Complainant For the purposes of the investigation provisions of this procedure, a member of the SAIT community who reports having experienced an act of sexual assault or sexual violence or a visitor to SAIT who reports having experienced an act of sexual assault or sexual violence by a member of the SAIT community.

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Consent

The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in mutually agreed-upon sexual activity. For further information, please refer to Canada's *Criminal Code*.

Disclosure

The act of informing a member of the SAIT community about an incident of sexual assault or sexual violence, for the purpose of seeking support. There is no investigation.

Incapacitated

Lacking the mental ability to fully understand and provide consent.

Report

The act of informing a member of the SAIT community about an incident of sexual assault or sexual violence, for the purpose of initiating an investigation.

Respondent

A member of the SAIT community alleged to have committed an act of sexual assault or sexual violence.

SAIT campus

SAIT's main campus and all satellite campuses, including virtual/digital campuses.

SAIT community

For the purpose of this procedure, all persons employed on SAIT's payroll (whether paid by annual salary or hourly wage), members of SAIT's Board of Governors, SAIT Student Association employees, students, contractors, consultants, agents and volunteers.

Sexual assault

A criminal offence under Canada's *Criminal Code*. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the survivor and involves a range of behaviours from unwanted touching to penetration.

Sexual violence

A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. Sexual violence may be characterized by a broad range of behaviours that involve the use of force,

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threats, threats to a third party, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which that person has not freely agreed, consented to or is incapable of consenting to. Examples of sexual violence include but are not limited to stalking, indecent exposure, voyeurism, distribution of sexually explicit photographs or recordings, online activities and stealthing.

Survivor

A member of the SAIT community who discloses having suffered from an act of sexual assault or sexual violence.

GOVERNING PRINCIPLES

1. As a post-secondary institution, SAIT plays a valuable role in preventing and responding to sexual assault and sexual violence. SAIT acknowledges that while sexual assault and sexual violence affect all members of society, it may disproportionately affect members of groups who experience intersecting forms of systemic discrimination on grounds such as gender, sexual orientation, gender identity and expression, race, religion, ethnicity, disability or class.
2. This procedure applies to all members of the SAIT community, regardless of whether an act of sexual assault or sexual violence has occurred on or off the SAIT campus, at a SAIT event or sporting event, during a SAIT-related educational activity such as a field trip or study abroad experience, or at a work-integrated learning site.
3. This procedure is intended to:
 - a) Prevent sexual assault and sexual violence through education and other proactive efforts that raise awareness about the nature and effects of sexual assault and sexual violence.
 - b) Support survivors, regardless of whether civil or criminal law proceedings have occurred and regardless of whether the survivor has chosen to make a disclosure or report through SAIT or external law enforcement processes.
 - c) Create processes for SAIT to respond effectively and in a timely and fair manner to disclosures and reports of sexual assault and sexual violence.

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4. Sexual assault is a criminal offence in Canada. It violates the physical integrity of individuals and undermines the physical, mental, emotional and spiritual health of survivors and of the entire SAIT community.
5. SAIT does not tolerate behavior that contributes to an unsafe and hostile workplace and learning environment. SAIT is committed to its community being able to grow, study, work, learn and socialize in a safe, supporting and healthy environment free from harassment and violence.
6. SAIT recognizes an individual's inherent right to exercise full control over their own bodies and to engage only in consensual sexual activity. The question of whether a person has given consent to engage in sexual activity is governed by the following principles:
 - a) Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
 - b) A person is incapable of giving consent if asleep, unconscious, incapacitated or otherwise unable to communicate.
 - c) A person who has been threatened or coerced (in other words, who is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it in a willing and informed fashion.
 - d) A person who has been drugged is unable to consent.
 - e) A person's ability to give consent may be compromised when under the influence of alcohol and/or drugs to the extent that they become incapacitated.
 - f) A person may be unable to give consent if that person has a mental or physical disability preventing that person from fully understanding or communicating consent.
 - g) The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for any future sexual activity.
 - h) A person can withdraw consent at any time during the course of a sexual encounter.
 - i) A person is incapable of giving consent to a person in a position of trust, power or authority, such as is the case in a student-faculty member relationship or in an employee-supervisor relationship.
 - j) Consent cannot be given on another person's behalf.
 - k) The person who initiates sexual activity is responsible to:

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- i) Ensure clear and affirmative responses are communicated at all stages of sexual engagement; and
 - ii) Know if the individual with whom that person is engaging sexually is of the legal age of consent.
7. A member of the SAIT community who witnesses an incident of sexual assault or sexual violence must report the incident to the Security and Community Services department at 403.284.8000 or by calling 911.
8. A member of the SAIT community who is alleged to have committed an act of sexual assault or sexual violence may be subject to proceedings under the criminal justice system or civil proceedings in addition to any investigation or proceedings that SAIT undertakes.
9. The confidentiality of all persons involved in a disclosure or report of sexual assault or sexual violence, including the survivor/complainant, the respondent and all witnesses will be strictly observed, subject to the requirements of the law. However, confidentiality cannot be assured if an individual is at imminent risk of self-harm or at risk of harming others and/or if there are reasonable grounds to believe that others in the SAIT community may be at risk of harm. In such situations, information will only be shared as necessary so as to prevent harm.

PROCEDURE

A. Education, Awareness and Support

1. SAIT shall take a variety of proactive measures to provide education, training and information about sexual assault and sexual violence and their impacts, through means including but not limited to:
 - a) Establishing a formal Sexual Assault and Sexual Violence Prevention and Response Committee. For further information, see the Committee's Terms of Reference, Schedule A, an Associated Document to this procedure.
 - b) Holding informational and prevention campaigns across the SAIT campus.
 - c) Establishing and maintaining a website that provides information about the nature and effects of sexual assault and sexual violence, about internal and

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external resources for survivors and their supporters, and about the procedures for survivors to make disclosures or reports.

- d) Providing education to members of the SAIT community to raise awareness about sexual assault and sexual violence, about the shared role of all members of the SAIT community in preventing sexual assault and sexual violence, and about appropriate ways in which to respond to a survivor's disclosure or report.
- e) Providing mandatory training for employees who
 - i) Provide health and counseling services to students.
 - ii) Investigate reports of sexual assault or sexual violence.

B. Disclosure of Sexual Assault or Sexual Violence

1. Survivors have the right to:
 - a) Receive SAIT support regardless of where or when sexual assault or sexual violence occurred.
 - b) Decide whether or not to disclose or report an incident of sexual assault or sexual violence, and to discontinue their involvement at any time in any process associated with making a disclosure or report. However, this right may be restricted in certain situations, where:
 - i) Survivors are under the age of 18.
 - ii) SAIT must take reasonable measures to protect the safety of the SAIT community by launching its investigation and/or informing the police of the need for a criminal investigation without the survivor's consent, where:
 - There is a risk to the safety of individuals and/or the broader SAIT community, such as where there is a history of repeated allegations about a respondent's conduct.
 - Required by law.
 - There is evidence of sexual violence in the public realm (such as a video posted on social media).

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In such a situation, SAIT will provide information and support to the survivor at every step of the process, even if the survivor chooses not to participate in the process.

- c) Be accompanied by a supporter throughout all processes associated with making a disclosure or a report.
 - d) Be treated with dignity and respect.
 - e) Have their disclosures and reports treated with the utmost privacy and confidentiality within the limits of the law, and recognizing that disclosure could be subjected to disclosure by the criminal legal system as part of a future investigative process.
 - f) Have information about health and counselling services both internal and external to SAIT, to choose for themselves those services they feel will be most beneficial, and to decline any or all of those services.
 - g) Receive information about the processes and timelines associated with making a disclosure or a report.
 - h) Not be judged or blamed for any drug and/or alcohol use around the time of the sexual assault or sexual violence incidence.
 - i) Not be judged or blamed for their dress, conduct, emotional disposition, past sexual history, or timing of the disclosure.
2. SAIT will consult with a survivor who has made a disclosure of sexual assault or sexual violence. SAIT and the survivor may undertake a risk assessment to identify and implement immediate, interim and/or permanent measures that are reasonably necessary to protect and support the survivor and the SAIT community, in compliance with SAIT's policies and procedures, SAIT collective agreements, and Alberta law. SAIT will advise the survivor about the length of time that may be required to institute these measures and will periodically update the survivor on the measures taken. These measures may include:
- a) Implementing academic accommodations and arrangements.
 - b) Issuing a trespassing notice to a visitor who is not a member of the SAIT community, as per procedure [AD.4.2.1 Trespassing](#).
 - c) Applying for peace bonds and restraining orders.

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C. Report of Sexual Assault or Sexual Violence

1. A member of the SAIT community who receives a report of sexual assault or sexual violence must forward the report to the Office of Community Conduct (in the case of a student respondent), the Employee Services department (in the case of an employee or contractor respondent) or Calgary Police Services (in the case of a respondent who is not a member of the SAIT community).
2. SAIT will consult with a complainant who has made a report of sexual assault or sexual violence and will identify and implement immediate, interim and/or permanent measures that are reasonably necessary to protect and support the survivor and the SAIT community, in compliance with SAIT's policies and procedures, SAIT collective agreements, and Alberta law. SAIT will advise the complainant about the length of time that may be required to institute these measures and will periodically update the complainant on the measures taken. These measures may include:
 - a) Voluntary measures to which the respondent has agreed.
 - b) Implementing alternate academic accommodations and arrangements.
 - c) Temporarily restricting the respondent from the SAIT campus or from parts of the SAIT campus.
 - d) Limiting the respondent's role, privileges or duties.
 - e) Issuing a trespassing notice to a visitor who is not a member of the SAIT community, as per procedure [AD.4.2.1 Trespassing](#).
 - f) Applying for a peace bond or restraining order.
 - g) Implementing a no-contact/no-communication ban between the complainant and the respondent.
3. SAIT will investigate a report of alleged sexual assault or sexual violence as soon as possible after receiving the report.
 - a) Employee Services investigates the report in the case of a respondent who is a member of the SAIT community other than a student.
 - b) The Office of Community Conduct investigates the report in the case of a student respondent, following the processes established in procedure [AC.3.4.4 Student](#)

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Non-Academic Conduct. This may also involve referring the matter to the Behavioural Intervention Team, as per [AC.3.4.5 Student Behaviours of Concern](#).

- c) If the respondent is a member of Employee Services or the Office of Community Conduct, Executive Management Council shall appoint an external investigator.
4. Complainants have the rights set out in paragraph B.1 of this procedure.
5. Respondents have the right to:
 - a) Appeal any decision as set out in procedure [AC.3.4.4 Student Non-Academic Conduct](#) in the case of a student who is a respondent, or under the provisions of procedure [HR.4.4.1 Corrective Action Procedures](#) in the case of another member of the SAIT community who is a respondent.
 - b) Be made aware of the allegations made against them.
 - c) Be treated with dignity and respect.
 - d) Know who has made the report, subject to the provisions of paragraph C.13 of this procedure.
 - e) Respond to the allegations against them.
6. The investigation should be completed within 30 business days from receipt of the report, although this timeline may be adjusted as required by the investigator.
7. At a minimum, the investigation should include individual interviews with the complainant, the respondent and any witness to the incident. The complainant shall not be asked to meet with or face the respondent in any capacity. The investigator shall not make comments, ask questions or include any judgement or blame regarding the complainant's dress, conduct, emotional disposition, past sexual history, or timing of the report.
8. SAIT will provide the complainant and the respondent with reasonable periodic updates about the status of the investigation.
9. The investigative process will continue until its completion, even if the complainant and/or respondent is no longer a member of the SAIT community.
10. On completion of the investigation, the investigator will inform the complainant and respondent that the investigation is finished and will provide Employee Services or the Office of Community Conduct with a report that sets out the investigation's

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findings and recommendations. Employee Services or the Office of Community Conduct will inform the complainant and respondent whether the allegation is substantiated or unsubstantiated.

11. If SAIT finds that the complainant's report is substantiated, sanctions will be applied to the respondent as per procedure [HR.4.4.1 Corrective Action Procedures](#) (in the case of a respondent who is a member of the SAIT community other than a student) or as per the non-academic misconduct provisions of procedure [AC.3.4.4 Student Non-Academic Conduct](#) (in the case of a student respondent).
12. If SAIT finds that the complainant's report is unsubstantiated, it will dismiss the report with no consequences to the respondent. If SAIT finds the complainant made the report in bad faith or to purposely annoy, embarrass or harm the respondent, the complainant may be subject to the sanctions set out in procedure [HR.4.4.1 Corrective Action Procedures](#) (in the case of a complainant who is a member of the SAIT community other than a student) or as per the non-academic misconduct provisions of procedure [AC.3.4.4 Student Non-Academic Conduct](#) (in the case of a student complainant).
13. SAIT will investigate any anonymous or third-party reports of sexual assault or sexual violence in accordance with this procedure, subject to provisions of paragraph B.1.b) of this procedure, provided that the report has sufficient information to allow the investigator to assess the allegation and the credibility of the facts and evidence on which the allegation is based, without the need for further information from the complainant.

D. Protection from Reprisals or Retaliation

1. No one shall retaliate, engage in reprisals or threaten to retaliate against an individual for making a report or disclosure under this procedure, for having participated or cooperated in an investigation or having been associated with someone who has proceeded under this procedure.
2. Anyone engaged in such conduct will be subject to the sanctions set out in procedure [HR.4.4.1 Corrective Action Procedures](#) (in the case of an individual who is a member of the SAIT community other than a student) or the non-academic misconduct provisions of procedure [AC.3.4.4 Student Non-Academic Conduct](#) (in the case of a student).

POLICY/PROCEDURE REFERENCE

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- HS.1.2 Prevention of Violence policy
- HS.1.2.1 Prevention of Violence procedure

PROCEDURE

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