

Sexual Violence/Misconduct Policy Procedures

1. Introduction

The University of Regina is committed to creating a safe and healthy working and learning environment that is free from sexual violence/misconduct. This includes educating our campus community about sexual violence/misconduct and consent, reducing the risk of incidents of sexual violence/misconduct, and responding fairly to disclosures and reports.

This document sets out the University of Regina's policy on, and response protocol for, allegations of sexual violence/misconduct. Sexual violence/misconduct is the omnibus term used in this policy which includes sexual assault, sexual stealthing, sexual harassment*, stalking, indecent or sexualized exposure, overt/covert public masturbation, voyeurism, cyber sexual violence/harassment; and distribution of an intimate image of a person without their consent.

These procedures apply to any person under the University's direction or who has a relationship with the University and who subjects a student, employee or any other member of the University community to sexual violence/misconduct in the context of a University Matter, whether the sexual violence/misconduct is alleged to have occurred on or off University property. This includes: (i) students; (ii) employees (faculty, staff, and student employees); (iii) persons who teach and conduct research at the University; (iv) members of the Senate, Board of Governors or other committees of the University; (v) visitors, guests, coaches, clients, customers, suppliers, and volunteers; and (vi) contractors, subcontractors and/or their employees and any persons under contract to the University.

These procedures are designed to accompany and provide details regarding the [Sexual Violence/Misconduct Policy](#).

* If a sexual harassment allegation is made against an employee, the [Respectful University Policy](#) and the procedures thereunder will apply. All other sexual harassment allegations will be subject to the [Sexual Violence/Misconduct Policy](#) and the procedures thereunder.

2. Definitions

Adjudication Board: A three person board, convened by and including the Associate Vice-President (Student Affairs), who will review the investigation report and recommend appropriate disciplinary penalty, outcome, or other measures, if any, in the case of sexual violence/misconduct by a student. Adjudication board members will receive basic awareness and educational programming with regards to sexual violence/misconduct. Adjudication Board members will be out-of-scope employees.

Alternative Resolution: A voluntary process whereby the complainant and the respondent resolve matters between them, with the help of a third party (such as through mediation), without engaging in the investigative and adjudicative processes.

Complainant: The person making a report of sexual violence/misconduct.

Consent: The active, ongoing, informed and voluntary agreement to engage in physical contact or sexual activity.

- There is no consent when someone says or does something to show they are not consenting to an activity, including but not limited to, pushing away, silence, giving in, not removing one's own clothing.
- Consent cannot be coerced through harassment, manipulation, threats, or abuse of power.
- A person is unable to give consent when they are impaired and under the influence of alcohol and/or drugs. Impaired judgment that leads a person to *think* or *believe* there was consent is not an excuse for sexual violence/misconduct.
- A person is incapable of giving consent if they are asleep, unconscious, drugged, or otherwise unable to communicate.
- The fact that consent to a sexual relationship was given in the past does not mean that consent is deemed to exist for all future sexual activity.
- Consent cannot be assumed within the context of relationships, including dating or marriage.
- A person can withdraw consent at any time during the course of a sexual encounter therefore consent must be on-going.
- A person in a state of diminished judgment cannot consent.

Cyber Sexual Violence/Harassment: An online behavior that constitutes or leads to harm against the physical, psychological and/or emotional state of an individual or group. It includes but is not limited to sexual comments or advances; attempts to obtain a sexual act; unwanted sexual acts; sexual coercion; spreading rumours; sending damaging messages, photos or videos; impersonations; and other forms of online behaviour that damage a person's feelings, self-esteem, reputation, and/or mental health.

Disclose/Disclosure: Sharing of information pertaining to an incident of sexual violence/misconduct. A disclosure does not automatically constitute a report with a subsequent investigation.

Intersectionality: The interconnected nature of multiple forms of discrimination, such as gender race, class, that creates overlapping and often additional systems of disadvantage.

Investigation Report: The report prepared by the investigation team following an investigation summarizing the evidence and containing their determination as to whether a breach of this policy has occurred or an act of sexual violence/misconduct has taken place.

Investigation Team: A team of investigators who have undergone specialized trauma-informed training in sexual violence/misconduct and have a thorough understanding of the terms of this policy, appointed by the University to conduct an investigation into a report of sexual violence/misconduct.

Jurisdiction to Investigate: The legal authority to investigate under this policy, which is limited by the following: (i) the allegations must be made against an individual who was a member of the University community at the time of the alleged sexual violence/misconduct and at the time the report was submitted; (ii) the alleged conduct must fall within the definition of sexual violence/misconduct; and (iii) the alleged conduct must have a real and substantial connection to the University.

Policy: This sexual Violence/Misconduct Policy.

Procedures: The Sexual Violence/Misconduct Policy Procedures made pursuant to this policy.

Rape Culture: A culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone sexual violence/misconduct by normalizing or trivializing such conduct, including by blaming persons subject to such conduct as being responsible for their abuse/treatment.

Report: A formal written or verbal statement accounting an incident of sexual violence/misconduct which initiates an investigation.

Respondent: The person accused of sexual violence/misconduct.

Sexual Assault: The intentional sexual contact or touching of another person with any object or body part without consent, or by force. It can include unwanted kissing, fondling, oral, anal sex, intercourse, or other forms of penetration, or any other unwanted act of a sexual nature.

Sexual Harassment: Conduct, comment, gesture or contact of a sexual nature that is offensive, unsolicited, or unwelcome.

Sexual Violence/Misconduct: Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature that is committed, threatened or attempted against a person without the person's consent. It includes but is not limited to sexual assault; sexual stealing; sexual harassment; stalking; indecent or sexualized exposure; overt/covert public masturbation; voyeurism; cyber sexual violence/harassment; and knowingly publishing, distributing, transmitting, selling, making available or advertising (collectively, "distribution") an intimate image of a person, through electronic or hardcopy means, without their consent.

Sexual Stealing: The non-consensual removal of or tampering with a condom or barrier during sex, such that unprotected sex occurs without the knowledge or consent of the sexual partner.

Stalking: Repeated conduct that is carried out over a period of time and which causes someone to reasonably fear for their safety or the safety of someone else with or without physical injury. Stalking behaviours include, but are not limited to, non-consensual communications (face to face, phone, e-mail, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; "creeping" via social media/cyber-stalking; and uttering threats.

Survivor: An individual who has been subject to sexual violence/misconduct. A survivor who registers a report is referred to in this policy as a complainant.

University Matter: Any activity, event, or undertaking in which a member of the University community participates, which has a substantial connection to the University, such as:

(a) University-related activities or events, including but not limited to:

(i) Any activity or event on property owned or controlled by the University;

(ii) The leasing of space, including student residence rooms, on property owned or controlled by the University;

(iii) The offering of any service by the University, including educational services;

(iv) Student placements (including co-op and internships), practica, or clinical training;

(v) Varsity and intramural sports, and University musical or artistic productions;

(vi) University research activities, whether on or off campus;

(vii) Student and/or employee exchanges or homestay arrangements made or arranged in connection with the University;

(viii) Social events or networking, where matters regarding the University or members of the University community are a significant focus of the activity;

(ix) University field trips, conferences, travel-study tours, service-learning activities, varsity sport travel, and similar activities;

(b) Activities or events involving members of the University community, where the actions of those members of the University community may reasonably reflect upon or affect the University, including but not limited to:

(i) Any aspect of the employment or engagement of employees and contractors for roles and projects substantially connected to the University;

(ii) Participation on a committee or board as a representative of the University;

(iii) Writings, photographs, artwork, audio or video recordings, and/or electronic communications, including communications through social media, where matters regarding the University or members of the University community are a significant focus of the communication;

(iv) Matters related to the University of Regina Students' Union and its affiliated student groups to the extent that it affects the proper functioning of

the University or the rights of a member of the University community to use and enjoy the University's learning and working environments; or

(v) Matters of off-campus conduct that have, or might reasonably be seen to have an adverse effect on the proper functioning of the University or the rights of a member of the University community to use and enjoy the University's learning and working environments.

3. Information

a. Confidentiality

Confidentiality is particularly important to those who have disclosed and/or reported an allegation of sexual violence/misconduct. The University will respect the confidentiality of all persons, including the person submitting the report or making an allegation, the respondent and witnesses.

In the following circumstances confidentiality cannot be assured:

- where an individual is at imminent risk of self-harm;
- where an individual is at imminent risk of harming another;
- where there are reasonable grounds to believe that member of the University community or in the wider community may be at risk of harm; and/or
- subject to Section 12 of [The Child and Family Services Act](#), which states that "every person who has reasonable grounds to believe that a child is in need of protection shall report the information to an officer or peace officer".

In such circumstances, information will be shared only with such persons whose intervention is necessary to prevent harm. The names of those involved will not be released to the public.

b. Additional Protections

Nothing in the policy or these procedures is intended to discourage or prevent a member of the University community, including students and employees, from reporting the incident to the police, filing a complaint with the Human Rights Commission, or from exercising any other legal rights pursuant to any other law.

Nothing in the policy or these procedures is intended to limit the rights of an employee governed by a collective agreement. If there is any ambiguity or conflict between the policy or these procedures, and a collective agreement, the collective agreement will prevail.

c. Protection from Reprisals, Retaliation or Threats

It is contrary to the policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a person filing a report, and/or other individuals, for:

- having pursued rights under the policy, the *Criminal Code*, or any other law;

- having participated or co-operated in an investigation under the policy, the *Criminal Code* or any other law; or
- having been associated with someone who has pursued rights under the policy, the *Criminal Code*, or any other law. Anyone engaged in such conduct may be subject to sanctions and/or discipline.

d. Respondent’s Relationship with the University

If a respondent ends their relationship with the University, such that they are no longer a member of the University community (including through graduation, withdrawal or resignation), the investigation process will continue as will the adjudication and, where applicable, disciplinary outcomes.

e. Off Campus Considerations

In the event that a complainant, respondent or witnesses are not based in Regina the Coordinator, Student Conduct; Coordinator, Respectful University Services; and the Investigation Team will make reasonable accommodations on a case-by-case basis throughout the assessment and investigation process, such as phone or video meetings/interviews or in-person visits to an off campus location. Off campus members of the University community may access University supports and services or be referred to supports and services at a location nearest to them by contacting the Coordinator, Sexual Violence Prevention and Response.

4. Disclosure

The decision to disclose an incident of sexual violence/misconduct, and the decision to report such an incident can comprise separate decisions. An individual may choose to disclose sexual violence/misconduct without making a report. Disclosure does not automatically result in a report being made or an investigation being undertaken by the University, except for in the cases outlined in section 3.a.

Individuals may anonymously disclose an incident of sexual violence/misconduct (<https://www.uregina.ca/sexual-violence/get-support/incident-report.html>) or a disclosure can be made to a member of the University Community. If a disclosure is made to a member of the University community, that person should contact the Coordinator, Sexual Violence Prevention and Response for support and information about reporting options, information on how to support someone who has disclosed or been disclosed to, and the arrangement of safety measures.

The University will make appropriate support services and accommodations available to members of the University community on the basis of a disclosure, regardless of whether they decide to make a report or whether the University has the jurisdiction to investigate. Further, support from URFA/CUPE and the Employee Family Assistance Plans are available.

The University recognizes that some individuals may be hesitant to disclose sexual violence/misconduct in cases where alcohol (including underage use) and/or substances were used at the time the sexual violence/misconduct took place. In this case, neither the survivor nor any witnesses who disclose or report an incident of sexual violence/misconduct

will be subject to discipline for violations of the University's policies related to drug and alcohol use.

5. Reporting

a. Filing Reports

Reports Involving Students: Reports involving a respondent who is a student should be filed with the Coordinator, Student Conduct (306.585.4557 or student.conduct@uregina.ca).

Reports Involving Other Members of the University Community: Reports involving a respondent who is not a student should be filed with the Coordinator, Respectful University Services (306.585.5400 or respect.matters@uregina.ca).

Reports Involving non-members of the University Community: Reports involving a respondent who is not a member of the University community should be filed with the police.

Individuals who have disclosed have the right to decide whether to make a report to University and/or file a report with the police. Reports to the police may result in criminal charges under the Criminal Code of Canada. This, or some other legal action, is the only avenue for pursuing a report of sexual violence/misconduct involving someone who is not a member of the University community. In the event that the complainant is a member of the University community, but the respondent is not, the complainant can still access supports offered by the University and the University may place restrictions on the respondent's access to campus, University services, and University events.

The Coordinator, Student Conduct or the Coordinator, Respectful University Services, as the case may be, will provide the complainant with written acknowledgment of the report within 5 business days from the date on which the report is made.

b. Third Party Reporting

Individuals can disclose incidents of sexual violence/misconduct to a third party who can then file a report on their behalf. This offers individuals the ability to protect their identity while giving information that can lead to a safer University community. Individuals are encouraged to consult with the Coordinator, Sexual Violence Prevention and Response for support and information regarding third party reporting.

c. Interim Measures

The University may implement interim measures following the filing of a report and during the investigation process. Such measures are without prejudice to the outcome of the investigation.

- (i) For students affected by sexual violence/misconduct, the interim measures will be imposed/arranged by the Associate Vice-President (Student Affairs) (in consultation with the Coordinator, Sexual Violence Prevention and Response, Campus Security, and other offices as appropriate) and may include:

- Room changes within University housing if one or both parties are residents;
 - On and/or off campus safety planning;
 - Restrictions on access to University facilities;
 - Reasonable academic accommodations (such as extensions on assignments, deferrals of exams, leaves of absences, authorized withdrawals, etc.);
 - No contact and no communication orders.
- (ii) For employees affected by sexual violence/misconduct, the interim measures will be imposed/arranged by the Associate Vice-President (Human Resources) (in consultation with the respective Dean, Director or delegate, the Coordinator Sexual Violence Prevention and Response, Campus Security, and other offices as appropriate) and may include:
- On and/or off campus safety planning;
 - Restrictions on access to University facilities;
 - No contact and no communication orders;
 - Reasonable employment/workplace restrictions or accommodations (such as temporary work assignment, location reassignment, or scheduling changes);
 - Imposition of administrative leave of absence.
- (iii) For other members of the University community affected by sexual violence/misconduct, the interim measures will be directed by the President (in consultation with the Coordinator, Sexual Violence Prevention and Response, Campus Security, and other offices as appropriate).

5.4 Initial Assessment of the Report

1. Once a report is received by the Coordinator, Student Conduct or the Coordinator, Respectful University Services, as the case may be, (each a "Coordinator") an assessment will be made to determine if the University has jurisdiction to investigate. The Coordinator's determination is final and not subject to further review or appeal.
 - (a) If the Coordinator determines that the University does not have the jurisdiction to investigate the Coordinator will inform the complainant in writing of this decision along with the rationale for the determination.
 - (b) If the Coordinator determines that the University has the jurisdiction to investigate the Coordinator will begin the investigation process.
 - (c) If the Coordinator determines that the report discloses other kinds of misconduct or information that the University may need to act on under another University policy or process, the Coordinator may refer the report or the relevant portions of the report to the appropriate University authority. The Coordinator will inform the complainant if the report is so referred.
2. The Coordinator will identify any critical issues that may require immediate attention, such as urgent safety and security matters, and determine if interim measures should be implemented.

5.4.1 Alternative Resolution

1. If the Coordinator believes that an alternative resolution may be appropriate, they will discuss this option with the complainant.
2. If the complainant agrees to an alternative resolution process, the Coordinator will contact the respondent to advise them that a report was made, and will discuss the proposed alternative resolution process option with the respondent.
3. If the respondent also agrees to an alternative resolution the Coordinator will explore the options with the parties, and proceed with the process agreed to by the parties.
4. If at any time either the complainant or the respondent decides they no longer wish to participate in the alternative resolution process, the University will proceed with the investigation process.
5. The complainant has the right to request an alternative resolution process at any time, up to the submission of the investigation report to the appropriate decision maker.
6. An alternative resolution is only acceptable under two conditions:
 - Both parties must consent to such process, and
 - Such process must not require any face-to-face meeting between the complainant and the respondent unless both parties agree.

Examples of alternative resolution are restorative justice and mediation and can include Indigenous-centred approaches to resolution and healing.

6. Investigation

a. Notice of Investigation

1. Once an initial assessment is complete, if the University has the jurisdiction to investigate the investigation will commence and the University will appoint an investigation team.
2. Once appointed the investigation team will:
 - (a) Contact the complainant to advise them that the report has been referred to investigation, and provide the complainant with:
 - The name and contact information of the investigation team members;
 - A link to the policy and these procedures;
 - Information about the support resources available during the investigation process; and
 - Information about the complainant's right to have an advisor, support person, Elder/Knowledge Keeper, or union representative present whenever they meet with the investigation team.
 - (b) Contact the respondent to advise them that a report has been made and has been referred to investigation, and provide the respondent with:
 - A summary of the report filed by the complainant;
 - The name and contact information of the investigation team members;
 - A link to the policy and these procedures;
 - Information about the support resources available during the investigation process;

- Information about the respondent's right to have an advisor, support person, Elder/Knowledge Keeper, or union representative present whenever they meet with the investigation team; and
 - Information regarding the date, time, and location of the respondent's interview with the investigation team.
3. The complainant or respondent can make a request to the applicable Coordinator for an alternate individual to be appointed to the investigation team, if they have reason to believe that the appointed individual cannot act impartially in the particular case. The University will review the request and determine if an alternate investigator will be assigned.

b. Investigation without Complaint

There may be times when the University is required or may choose to conduct an investigation where a report has not been filed, or when a survivor has chosen not to proceed with the investigation process or has withdrawn their report. These include, but are not limited to, (i) situations where the safety and security of other members of the University community is or may be at risk, or (ii) where there is evidence of sexual violence/misconduct in the public realm (such as a video posted online).

Information and support will be made available to the survivor involved even if they choose not to participate.

c. Conduct of the Investigation Process

The investigation will be conducted in accordance with the principles of procedural fairness and natural justice. In particular:

- All investigations will be completed in a timely manner, taking into consideration the complexity of the case and availability of the respondent, the complainant, and any relevant witnesses;
- The complainant will be provided an opportunity to provide evidence, including witnesses, in support of their report;
- The complainant will not be required to answer questions regarding their past sexual history (other than the complainant's history with the respondent);
- The respondent will be provided access to documentary and other evidence if requested, to ensure procedural fairness and natural justice, subject to confidentiality provisions;
- The respondent will be provided a reasonable opportunity to respond to the allegations in the report;
- While strict rules of evidence do not apply, appropriate weight must be given to evidence based on its credibility and reliability; and
- Witnesses (including complainants and respondents) may consult with and be accompanied by a representative.

d. The Investigation Process

1. The investigation team will conduct separate interviews with the complainant, the respondent, and any relevant witnesses. Notes from the interviews will be typed, and each interviewee will be given the opportunity to review, confirm, and/or add

- comments to the typed statements. More than one interview may be required as new information is gleaned.
2. In the event that the respondent does not reply to the meeting request within a timely manner, or chooses not to participate in the investigation process, the investigation team may proceed with the investigation without a statement from the respondent.
 3. After all interviews have been completed the investigation team will assess all information and evidence to determine if a breach of the policy has or has not occurred based on the balance of probabilities, and will prepare an investigation report.
 4. The investigation team shall conclude the investigation as expeditiously as possible, normally within ninety (90) days from the date on which the report is received by the respective Coordinator.
 5. Once the investigation team has completed the final investigation report, it will be submitted to the appropriate decision maker, as follows:
 - (a) the Associate Vice-President (Student Affairs) where the respondent is a student;
 - (b) the Associate Vice-President (Human Resources) where the respondent is an employee of the University;
 - (c) the Chair of the Board of Governors (or delegate), where the respondent is a member of the Board of Governors (including the President) or a non-employee member of a committee of the Board or of the University;
 - (d) the Chancellor, where the respondent is a non-employee member of the Senate, or is the Chair of the Board of Governors; or
 - (e) the President, where the respondent is any other member of the University community.

The complainant and the respondent will also be provided with a copy of the investigation report.

i. Support During an Investigation

Both complainants and respondents will have access to University supports throughout the investigation and adjudication making process. Support for complainants will be provided by the Coordinator, Sexual Violence Prevention and Response. Support for respondents who are students will be facilitated by the Coordinator, Student Conduct. Support for respondents who are employees will be facilitated by Human Resources, consistent with any existing relevant collective agreement provisions.

e. Adjudication

i. Adjudication - Student:

- Where the respondent is a student, an adjudication board will be convened by the Associate Vice-President (Student Affairs) to review the findings in the investigation report.
- The respondent will be provided with the opportunity to appear before the adjudication board (prior to the rendering of a discipline decision). The complainant will not be required to appear before the adjudication board.
- The Associate Vice-President (Student Affairs), in consultation with the adjudication board, will determine the appropriate disciplinary penalty,

outcome or other measures, if any. The disciplinary decision will be based upon the nature and severity of the sexual violence/misconduct (and will be in accordance with the penalties for other acts of non-academic misconduct up to and including expulsion). The penalty may include measures such as counselling and mandatory education or training.

- The decisions of the adjudication board will be conveyed in writing by the Associate Vice-President (Student Affairs) to the respondent and will be deemed to be a disciplinary penalty under and subject to the [Regulations Governing Discipline for Academic and Non-Academic Misconduct](#) (including with respect to all rights of appeal).

ii. Adjudication – Employee:

- Where the respondent is an employee the Associate Vice-President (Human Resources) will review the findings in the investigation report and determine the appropriate disciplinary penalty, outcome or other measures, if any. The disciplinary decision will be based upon the nature and severity of the sexual violence/misconduct, and may include measures such as counselling and mandatory education or training, to termination of the member’s position with the University.
- The disciplinary decision will be conveyed in writing by the Associate Vice-President (Human Resources) to the respondent.
- Nothing in the policy or these procedures is intended to limit the rights of an employee governed by a collective agreement.

iii. Adjudication – Other Members of the University Community:

- Where the respondent is a Member of the Board of Governors (including the President), Non-Employee Member of a Committee of the Board or of the University, Non-Employee Member of Senate, or Other Member of the University Community, the review and determination of appropriate disciplinary penalty, outcome, or other measures, if any, will be determined on a case-by-case basis by the applicable decision maker as described in section 6.4 (5).

iv. Notice of Adjudication to the Complainant

The complainant will be advised by the applicable decision-maker whether a disciplinary penalty has been given to the respondent, and information only on those disciplinary outcomes or measures that may have a direct impact on the complainant.

7. Appeals (See Appendix C)

Student respondents may appeal the imposition or severity of a disciplinary decision to the Council Discipline Committee. If a student is dissatisfied with the decision of the Council Discipline Committee, they may appeal the decision to the Senate Appeals Committee (See Undergraduate and Graduate Calendars for details relating to such appeals).

An employee who is disciplined for a breach of the policy has the right to grieve the disciplinary decision under the applicable collective agreement.

APPENDIX A – disclosure

Disclosure

Disclosures can be made to anyone and can be made in person, anonymously, or through a third party.



The Coordinator, Sexual Violence Prevention and Response

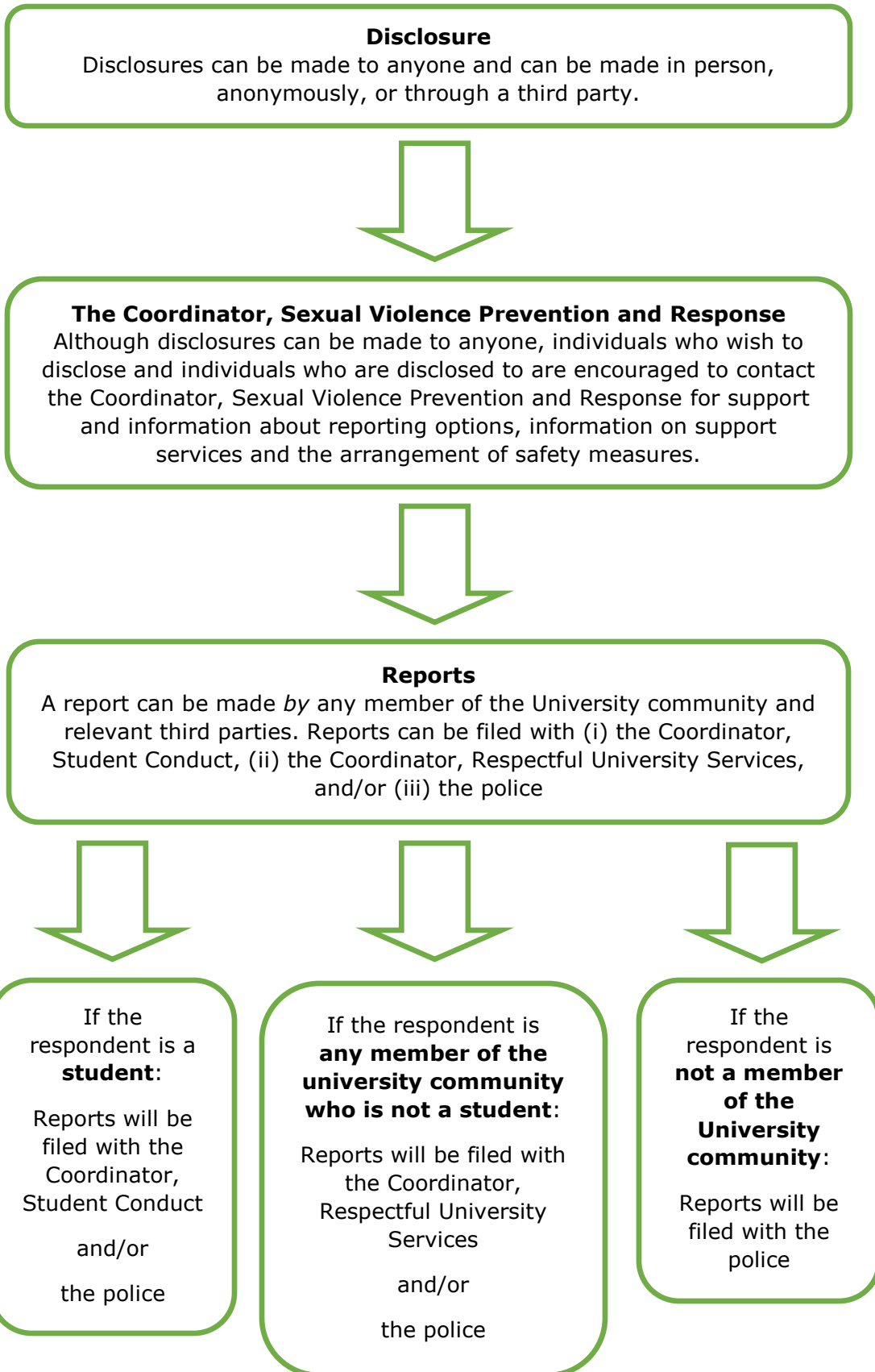
Although disclosures can be made to anyone, individuals who wish to disclose and individuals who are disclosed to are encouraged to contact the Coordinator, Sexual Violence Prevention and Response for support and information about reporting options, information on support services and the arrangement of safety measures.



No Intent to Report

The individual disclosing may access University supports and services by contacting the Coordinator, Sexual Violence Prevention and Response (306-337-3149, sexual.violence.response@uregina.ca)

APPENDIX B - reporting



APPENDIX C – appeals

