



GENDER-BASED AND SEXUAL VIOLENCE PROCEDURE

Procedure Type:	Institutional	Initially Approved:	November 28, 2022
Procedure Sponsor:	President and CEO	Last Revised:	April 17, 2023
Administrative Responsibility:	Health, Safety and Environment	Review Scheduled:	April 2026
Approver:	President and CEO		

A. PURPOSE

This Procedure is intended to provide guidance to the AUArts Community with respect to Formal Complaints of alleged Gender-Based or Sexual Violence by a AUArts Community member.

B. SCOPE

This Procedure applies to all Students whose conduct occurs on AUArts premises or off AUArts premises where the Student is involved in the business of AUArts, within the nexus of activities related to AUArts or is formally representing AUArts.

C. DEFINITIONS

This Procedure relies on the Definitions set out in the Gender-Based and Sexual Violence Policy and those set out below.

Advisor: Means an individual who attends a hearing with a Respondent to act in an advisory and/or supportive role. An Advisor may be legal counsel, a peer or a Students' Association representative.

Appeal Board: Means the board established in accordance with Appendix 3 that is authorized to consider an appeal of a Hearing Officer or Hearing Board relating to Student Non-Academic Misconduct.

Balance of Probabilities: Means the standard of proof is met if the allegation is more likely to be true than not true.

Hearing: Means the process to evaluate and resolve a Formal Complaint.

Hearing Officer: Means the Dean of Student or designate who is authorized to review and guide the process of resolving a Formal Complaint.

Hearing Board: As defined in Appendix 1.

Student Non-Academic Misconduct: means conduct that is prohibited as outlined in Appendix 2.

D. PROCEDURES

1. INTERIM MEASURES

- 1.1 AUArts may impose Interim Measures in response to either a Disclosure or a Formal Complaint where the allegations would:
 - a) If proven, constitute Gender-Based Violence, Sexual Assault, Sexual Harassment or Sexual Violence; and
 - b) With regards to all of the circumstances, be a risk to an individual, the community or the integrity of any potential investigation.
- 1.2 The purpose of Interim Measures is to ensure personal safety, discourage or prevent Retaliation, prevent further Gender-Based or Sexual Violence, protect confidentiality, minimize disruption to the learning, working or residence environment and/or preserve AUArts ability to conduct a thorough investigation.
- 1.3 Having regard for the circumstances, where Interim Measures are imposed, they must be appropriate and proportionate to the seriousness of the alleged conduct, and as minimally restrictive as possible to achieve their purposes. As a result, Interim Measures will be implemented with consideration of, but not limited to:
 - a) The reasonable wishes of the individual who experienced the Gender-Based or Sexual Violence;
 - b) The nature and/or severity of the alleged conduct;
 - c) Reasonably credible information about patterns of conduct or previous history of Gender-Based or Sexual Violence or other misconduct;
 - d) The potential impact of the measures on the Complainant(s) and Respondent(s), including their academic program of study and/or employment;
 - e) The potential impact of the measures on the learning, working or residence environment;
 - f) In the case of AUArts employees, in accordance with their relevant Collective Agreement; and
 - g) Any other relevant information.
- 1.4 The decision to impose Interim Measures will be made by:
 - a) In the case of Students, the Dean of Students, or designate.
 - b) In the case of AUArts employees (faculty or staff), the Executive Director, People and Culture.

Decision makers may consult as needed in determining whether to impose Interim Measures and the nature of those measures.

- 1.5 In all cases, decisions on Interim Measures must be communicated in writing and include:
 - a) Particulars of the Interim Measures being imposed;
 - b) Information about the right of the Complainant(s) and/or Respondent(s) to request a reconsideration;

- c) Information about the investigation and Formal Complaint process; and
 - d) Referrals to supports and/or services.
- 1.6 An individual on whom Interim Measures are imposed may request a reconsideration of the decision and must do so within sixty (60) calendar days of the implementation of the Interim Measures. Further, at any time, the decision maker may on his or her own initiative reconsider the Interim Measures imposed and renew, revise or revoke any or all Interim Measures, or impose additional Interim Measures
- 1.7 Interim Measures will be re-evaluated when the Formal Complaint process is concluded.

2. FORMAL COMPLAINTS

INTAKE

- 2.1 Individuals may submit a Formal Complaint and any relevant documentation:
- c) to the Hearing Officer; or
 - d) Campus Security may forward an incident report attached to a complaint report to the Registrar as a Formal Complaint.
- 2.2 A Formal Complaint should include a detailed description of the incident, including (if known):
- a) name(s) of the Respondent(s);
 - b) time(s), date(s) and location(s) of the incident(s);
 - c) detailed description of the alleged incident;
 - d) names of potential witnesses; and
 - e) the name and contact information of the Complainant.
- 2.3 A Formal Complaint may be submitted anonymously but the Complainant should be aware that this may limit the ability of AUArts to investigate, review and resolve the complaint.
- 2.4 If, during the course of filing a Formal Complaint, the Complainant discloses having committed an offense contrary to a non-academic AUArts policy (e.g., by using drugs or alcohol) at the time of the incident this information will not result in any disciplinary proceedings against the Complainant.
- 2.5 The Hearing Officer will evaluate a Formal Complaint to determine if:
- a) the allegation(s) relate to actions that are in violation of the Gender-Based and Sexual Violence Policy;
 - b) the allegation(s) should be addressed in an informal or other manner;
 - c) immediate action in the form of Interim Measures is warranted to protect the health and safety of the AUArts Community.
- 2.6 The Hearing Officer may decide not to proceed with or investigate a Formal Complaint (a) if the Respondent is not a current member of the AUArts Community, or (b) the allegations, if proven to be true would not constitute Gender-Based or Sexual Violence.
- 2.7 The Hearing Officer will acknowledge the Formal Complaint within three (3) business days of receipt and will notify the Complainant in writing within ten (10) business days of receipt of the Formal Complaint whether:
- a) the Formal Complaint will be investigated;
 - b) the Formal Complaint will be addressed in another manner;
 - c) the Formal Complaint will not be investigated; and/or
 - d) that immediate Interim Measures will be implemented to protect the health or safety of the Complainant and/or the AUArts Community.

Examples of Interim Measures include separation of the parties, no contact orders, class and/or schedule changes, limits on accessing particular and/or all facilities. If Interim Measures are to be implemented AUArts Security Office will be involved.

- 2.8 The Hearing Officer may extend timelines in extenuating circumstances with notice to the Complainant.

STUDENTS

- 2.9 Complaints of Gender-Based or Sexual Violence against Students will be addressed using the procedures outlined in this Procedure and the Student Conduct Procedure, as applicable.

EMPLOYEES

- 2.10 Complaints of Gender-Based or Sexual Violence against AUArts employees will be addressed using the procedures outlined in the Respectful Workplace Procedure, and/or as applicable:
- a) For members of the staff, the processes outlined in the collective agreement between AUArts and AUPE.
 - b) For members of the faculty, the processes outlined in the collective agreement between AUArts and the Faculty Association.

3. INVESTIGATION

- 3.1 If the Hearing Officer decides to initiate an investigation, they will notify the Complainant(s) and Respondent(s) in writing of the investigation and of any Interim Measures. Such notice will include a summary of the allegations made and will attach all relevant documents provided by the Complainant(s). The notice will also advise Complainant(s) and Respondent(s) of any potential sources of support.
- 3.2 Any investigation will include the appointment of an impartial investigator that has competence in conducting investigations related to allegations of Gender-Based Violence, Sexual Assault, Sexual Harassment or Sexual Violence.
- 3.3 During an investigation the Respondent(s) will be given an opportunity to respond in writing to the Formal Complaint.
- 3.4 Upon receipt of the written response to the Formal Complaint the investigator will normally:
- Interview the Complainant;
 - Interview the Respondent;
 - Interview all relevant witnesses.

The investigator will keep written notes of all interviews and will gather all additional relevant documents. The investigator will advise all individuals involved in the investigation that they are expected to keep all information provided or obtained during the investigation process confidential.

- 3.5 The investigator will not ask the Complainant(s) or Respondent(s) irrelevant questions about their sexual expression or past sexual history.
- 3.6 Throughout an investigation, Complainant(s) and Respondent(s) may invite a support person to meetings with the investigator, though the investigator may exclude a support person from all or part of an interview if the investigator reasonably believes that the support person will affect the quality of the

interview. For example, an investigator may believe that a Student is unlikely to be forthright about sexual matters in the presence of a parent.

- 3.7 Upon the completion of the investigation the investigator will send the Hearing Officer a written confidential report containing the investigator's summary of the evidence, conclusions about credibility, and findings of fact.
- 3.8 The time required to commence and complete an investigation may vary, but investigations should ordinarily start and finish within 30 (calendar) days.
- 3.9 Upon receipt and review of the investigation report, the Hearing Officer will speak to the Complainant(s) and Respondent(s) separately and will advise whether or not the matter will be referred to a Hearing.
- 3.10 In exceptional circumstances, AUArts may informally resolve a Formal Complaint, with or without the agreement of the Complainant(s), at any stage in process in circumstances in which it considers resolution appropriate.

4. HEARING

- 4.1 In making the decision to refer a Formal Complaint to a Hearing, the Hearing Officer will consider:
 - the nature of the allegation;
 - whether the alleged incident was isolated or one of several alleged incidents; and
 - whether the Respondent has been found responsible for Student non-academic misconduct in the past.

The decision to initiate or not initiate a Hearing is made at the sole discretion of the Hearing Officer after consideration of all of the circumstances.

- 4.2 If the Hearing Officer determines that a Formal Complaint will be referred to a Hearing they will also decide whether to appoint a single adjudicator or a Hearing Board to hear the matter. If a sole adjudicator is appointed, they will be the Registrar.
- 4.3 An adjudicator or Hearing Board must have received training regarding the sensitive issues surrounding Gender-Based and Sexual Violence, procedural fairness, fair resolutions and the consequences or measures that may be appropriate for an incident of Gender-Based or Sexual Violence and which will act as a deterrent to further occurrences.
- 4.4 An adjudicator or Hearing Board may seek the assistance of legal counsel, and such assistance will be on a confidential basis.
- 4.5 The Respondent will be advised in writing:
 - a) of the proposed date for the Hearing and notice of the right to reschedule within reasonable time frames;
 - b) whether the Hearing will be before a single adjudicator or a Hearing Board;
 - c) of the alleged misconduct;
 - d) of the right to be accompanied by an Advisor of their choice;
 - e) of the Student Conduct Procedure and any other applicable AUArts policies and procedures; and
 - f) that a decision may be made in the Respondent's absence if they fail to appear for the Hearing.
- 4.6 If the Respondent's Advisor is a lawyer, the Respondent or lawyer shall provide written notice of the lawyer's attendance at the Hearing to the Hearing Officer at least two (2) business days in advance of the Hearing date.

- 4.7 An Advisor will not normally be allowed to present/speak during a Hearing. The adjudicator and/or Hearing Board may permit an Advisor to speak during a Hearing to limited purposes.
- 4.8 During the Hearing the Respondent:
 - a) will have the opportunity to respond to any evidence;
 - b) may present any evidence they determine to be relevant.
- 4.9 The standard of review for determining whether a Student has violated the Gender-Based and Sexual Violence Policy and/or Student Conduct Procedure is on a Balance of Probabilities.
- 4.10 Hearings will not be open to the public and will be kept confidential by the adjudicator or Hearing Board.
- 4.11 The Respondent will be provided with written notice of the decision of the adjudicator or Hearing Board including any sanction(s) applied and the rationale for the decision within ten (10) business days of the Hearing. The adjudicator or Hearing Board may extend timelines in extenuating circumstances with notice to the Respondent.
- 4.12 If requested, the Complainant may be provided with written notice as to whether the Formal Complaint was substantiated, or not substantiated, as well as information on any sanctions imposed that are relevant to them.
- 4.13 Consistent with AUArts Access to Information and Protection of Privacy Policy, information about the decision of an adjudicator or Hearing Board will be shared only with those who have a legitimate need for the information.

5. STUDENT SANCTIONS

- 5.1 Sanctions against Students for violations of the Gender-Based and Sexual Violence Policy and/or Student Conduct Procedure as provided for in Appendix 2.
- 5.2 In deciding what sanction to impose on a Student, the adjudicator or Hearing Board will consider:
 - The Student's intention;
 - Any other incident of Non-Academic Misconduct the Student has committed,
 - The seniority of the Student,
 - Any relevant personal circumstances; and
 - The gravity of the offence and the context in which it occurred.
- 5.3 If a sanction includes suspension or notice of trespass from AUArts the Student Respondent will be notified of the terms and conditions associated with their return to campus, if any, at the time they are notified of the decision of the adjudicator or Hearing Board.
- 5.4 At the end of the specified period of suspension or notice of trespass from AUArts, the Student Respondent will be eligible to return to AUArts provided that:
 - a) all terms and conditions of the suspension or notice of trespass have been met; and
 - b) all outstanding disciplinary sanctions required to be completed before the end of the suspension or trespass period have been completed.

6. APPEALS BY STUDENT COMPLAINANTS AND RESPONDENTS TO APPEAL BOARD

- 6.1 A Student Complainant or Respondent may dispute or challenge the outcome of a Gender-Based and Sexual Violence Policy decision and appeal the decision made by the adjudicator or Hearing Board to the Appeal Board within ten (10) business days of receiving the decision, as set out in Appendix 1.
- 6.2 To file an appeal, the appellant must submit the following information, in writing, to the Dean of Students:
 - a) a copy of the decision;
 - b) a statement of the basis for appeal;
 - c) a statement of facts relevant to the basis of appeal;
 - d) a statement of the outcome sought; and
 - e) any supporting documentation that the appellant intends to refer to at the appeal hearing.
- 6.3 An appellant may appeal the decision of the adjudicator or Hearing Board on any of the following bases:
 - a) relevant evidence has emerged that was not available at the time of the original decision;
 - b) this Procedure and/or the Student Conduct Procedure was not followed and the outcome of the Hearing may have been substantially affected by this failure;
 - c) the severity of the sanction imposed exceeds the nature of the misconduct for reasons identified by the Respondent; or
 - d) there was clear evidence of bias in the Hearing or investigation process.
- 6.4 An appeal before the Appeal Board will be scheduled within ten (10) business days of filing the appeal. Timelines may be extended by mutual agreement of the Student appellant and the Appeal Board or in extenuating circumstances by the Dean of Students with notice to the Student appellant.
- 6.5 At an appeal hearing the appellant may be accompanied by an Advisor. If the Advisor is a lawyer, the Student appellant or lawyer shall provide written notice of the lawyer's attendance at the hearing to the Dean of Students at least two (2) business days in advance of the appeal hearing date.
- 6.6 Appeal hearings will not be open to the public and will be kept confidential by members of the Appeal Board.
- 6.7 If necessary, appeal hearings may be adjourned to ensure that essential information can be obtained. If an Appeal Board hearing has been adjourned, it will be reconvened within five (5) business days. Timelines may be extended by mutual agreement of the appellant and Appeal Board or in extenuating circumstances by the Appeal Board with notice to the Respondent.
- 6.8 The Appeal Board shall decide whether to uphold the decision of the adjudicator or Hearing Board and any applicable sanctions or to render a new decision and sanctions, if any, in accordance with the sanctions and guidelines set out in **Appendix 2**.
- 6.9 The Student appellant will be provided with written notice of the outcome of the appeal hearing within ten (10) business days of the decision being reached. Timelines may be extended by mutual agreement of the Student appellant and the Appeal Board or in extenuating circumstances by the Appeal Board with notice to the Respondent.
- 6.10 The decision of the Appeal Board is final.

E. RELATED POLICIES

- Code of Conduct Policy
- Student Conduct Procedure
- Respectful Workplace Policy
- Respectful Workplace Procedure
- Access to Information and Protection of Privacy Policy
- Gender-Based and Sexual Violence Policy

F. RELATED LEGISLATION

- Alberta Occupational Health and Safety Act
- Post-Secondary Learning Act
- Alberta Human Rights Act
- Alberta Workers Compensation Act
- Criminal Code of Canada
- Freedom of Information and Protection of Privacy Act

G. RELATED DOCUMENTS

- Appendix A: Gender-Based and Sexual Violence Resources
- Appendix B: Navigating Help @ AUArts for Gender-Based and Sexual Violence
- Appendix C: Gender-Based and Sexual Violence Reporting Form

H. REVISION HISTORY

Date (mm/dd/yyyy)	Description of Change	Sections	Person who Entered Revision (Position Title)	Person who Authorized Revision (Position Title)
11/28/2022	New Procedure	All	University Secretary	President
04/17/2023	Revisions	3.10, 4.1, 6	University Secretary	President

Appendix 1: Hearing Board Composition

The Hearing Board on Student Conduct shall consist of the following members:

- School Director, who chairs the committee, appointed by the Dean of Academic Programs;
- Registrar;
- One (1) Student appointed by the Students' Association for a period of one year;and
- Two (2) faculty appointed by the Dean of Academic Programs.

Appendix 2: Sanctions – Student Non-Academic Misconduct

1. Sanctions may be applied independently or in combination for any violation of the Gender-Based and Sexual Violence Policy and/or the Student Conduct Procedure.
2. Repeated or multiple breaches of the Gender-Based and Sexual Violence Policy and/or Student Conduct Procedure may result in sanctions that are more severe than would be imposed for a single breach.
3. The following sanctions may be imposed by an adjudicator, Hearing Board or Appeal Board:
 - written warning;
 - written reprimand;
 - discretionary sanction – work assignments, educational assignment, restorative measures, service to AUArts or other discretionary assignments that are considered appropriate by the adjudicator, Hearing Board or Appeal Board;
 - letter of behavioral expectations – an undertaking not to engage in certain behavior and setting out the consequences if the requirements set out in the letter are not followed;
 - monetary compensation for loss, damage or injury or replacement of damaged or destroyed property;
 - monetary fine;
 - notice of trespass from campus;
 - loss of privileges – denial of specified privileges for a designated period of time;
 - withdrawal from one or more courses;
 - restrictions on participating in a AUArts club or organization or in certain activities of an AUArts club or organization;
 - suspension – suspension of the Student from AUArts for a specified period of time, after which the Student is eligible to return. A permanent or temporary transcript notation may be placed on the official AUArts transcript. Conditions for readmission may be specified;
 - expulsion – permanent separation of the Student from AUArts. A permanent transcript notation may be placed on the official AUArts transcript;
 - an alert in AUArts' admission and registration system; and
 - any other appropriate sanction as determined by the adjudicator, Hearing Board or Appeal Board.

Appendix 3: Appeal Board Composition

The Appeal Board on Student Conduct shall consist of the following members:

- Dean, Academic Programs who acts as the Appeal Board Chair;
- Dean of Students;
- One (1) School Chair appointed by the Dean, Academic Programs; and
- One (1) faculty member appointed by the Dean, Academic Programs