

**Independent Review of  
Bishop's University's  
Practices and Policies Related to  
Sexualized Violence**

*Prepared for Bishop's University  
June 9, 2022*



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## REPORT OF THE INDEPENDENT REVIEW PANEL FOR BISHOP'S UNIVERSITY JUNE 9, 2022

### OVERVIEW

#### ***Bishop's Engagement of CCLISAR***

In December 2021, the Canadian Centre for Legal Innovation in Sexual Assault Response (CCLISAR) was approached by Bishop's University to form an Independent Review Panel ("IRP") to provide recommendations on improving the University's policies, procedures and practices in response to disclosures and reports of sexualized 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 for Bishop's were Joanna Birenbaum (Chair), Professor of Law (and currently Associate Provost, Equity and Academic Policies) Angela Campbell (McGill University), and Professor of Law Carissima Mathen (University of Ottawa). A communication to the Bishop's University community members that contains biographies for the IRP members is attached at Schedule B to this Report.

#### ***The Bishop's Context and The Catalyst for the CCLISAR Review – the "Message on the Bridge"***

On November 3, 2021, an anonymous message appeared on the bridge connecting the Bishop's University campus with the main community of Lennoxville, Québec. The words on the bridge said: "He raped me, I reported, he's still in my class, BU take action."

To understand the impact that the message had on the Bishop's community, a brief overview of Bishop's is helpful. Bishop's is an English-language University located in the Eastern Townships of Québec. Bishop's is a "predominantly residential, mostly undergraduate" University, with approximately 2900 full-time students.<sup>1</sup> The academic focus of Bishop's is

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<sup>1</sup> Information taken from the "About" page of the Bishop's University website: [www.ubishops.ca](http://www.ubishops.ca) .

liberal arts, offering approximately 500 courses between three Faculties: the Faculty of Arts and Science, the Faculty of Business and the Faculty of Education.

As a result of the small size and intimacy of the Bishop's community, "word travels fast."<sup>2</sup> The IRP was repeatedly told that if one student has a negative experience in the sexual violence disclosure or reporting process, that experience can have wide and reverberating impacts. Bishop's size, location, residential student body and connection to its surrounding community, explains the wide impact that the "Message on the Bridge" had on students, staff, faculty and community members, including persons living in Lennoxville (such as alumni, neighbours, or family members of staff or faculty).

Bishop's is an anglophone university situated in a predominantly francophone community. This reality poses (or is perceived to pose) barriers to accessing external resources or agencies, such as the Sherbrooke Police or the local women's centre, CALACS (Centre d'aide et de lutte contre les agressions à caractère sexuel). While both offer English-language services, this does not appear to be widely known within Bishop's. The language issue (for those who are not bilingual) creates, as the students described, "a linguistic bubble at Bishop's" that enhances the feeling (and reality) of intimacy and a close community.

When the "Message on the Bridge" appeared on November 3, 2021, it generated immediate attention, concern, and discussion within the Bishop's community and beyond, including in the media and on social media.

Bishop's took various and prompt actions in response to the message (as emphasized to the IRP in this process), including:

- hosting multiple Town Halls in November/December 2021 and the winter term;
- passing a Board of Governors resolution in November 2021 committing the University to supporting survivors and the Bishop's management team in preventing sexual violence;
- establishing an Ad-Hoc Committee on the Prevention of Sexual Violence (the "Ad Hoc Committee") in November 2021; and
- updating the Policy for the Prevention of Sexual Violence (pending the results of this Review) in a manner intended to improve the University's process and responses, with amendments approved on December 17, 2021.

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<sup>2</sup> The IRP heard this phrase used repeatedly in relation to the culture and environment at Bishop's.



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Between November 2021 and March 2022, the Ad Hoc Committee developed an [Action Plan for Education and Prevention of Sexual Violence](#), which was approved by the Board of Governors in March 2022.

In addition to the activities set out above, the University engaged CCLISAR to consult with the Bishop's community and to review Bishop's policies, procedures and practices to ensure that they are:

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

The IRP's mandate included considering the ways in which the University's practices or approaches may have fallen short of their purpose in the past, with a view to implementing positive change in the future.

A term of CCLISAR's engagement by Bishop's, as required by CCLISAR, was that the IRP's final report would be made public by Bishop's as well as posted on the CCLISAR website.

### ***The IRP's Process***

The IRP commenced its work in January 2022 by undertaking a comprehensive review of the University's existing policies and procedures. At other institutions outside of Québec where CCLISAR has undertaken similar reviews, the IRP has also been granted confidential access to 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. Unfortunately, due to Québec privacy legislation or the interpretation of Québec privacy laws, Bishop's did not provide the IRP with sample case files. This prevented the IRP from conducting an independent and first-hand review of how past cases were handled. Information in case files is invaluable and it is unfortunate that this aspect of CCLISAR's review process could not be included in Bishop's review. Relying on second or third-hand summary accounts of how the process has worked in the past is not a meaningful substitute for a review of the files.

During the period of February – April 2022, the IRP consulted with the Bishop's community, including with individual students, current and former student athletes from numerous different teams, student groups, student union leaders, faculty, and staff employed in

various areas of the University (including health and wellness, residence life, and athletics). The IRP met with individuals who identified as survivors and individuals who identified as persons who had committed acts of sexualized violence. The IRP held one-on-one phone and Zoom sessions and received comments and contributions to the consultation process by email. Invitations to meet with the IRP and outreach to promote the consultations were delivered by the University through email and direct contact to specific student and faculty groups and individuals, as well as advertised by the student-led Sexual Cultural Committee (SCC) and Student Representative Council (SRC) on social media.

In addition, in accordance with the Terms of Reference, an Expert Advisory Group (EAG) workshop was held May 16, 2022, to examine and discuss the IRP's proposed recommendations and address related questions. Four additional independent experts selected by CCLISAR attended this meeting: Karen Busby (Professor of Law, University of Manitoba), Louise Langevin (Professor of Law, Laval University), Dr. Lori Haskell (Clinical Psychologist, educator and expert in sexual violence and trauma), and CCLISAR's Director of Research (and Professor of Law at Dalhousie University), Elaine Craig. Following the EAG workshop, a number of additional meetings were held with Bishop's community members.

In total, the IRP met with, or received feedback from, approximately 100 persons at Bishop's.

The IRP made efforts to meet with diverse students, so as to ensure that the information we heard, and recommendations made, reflect the diversity of needs and experiences at Bishop's. We were advised by students, however, that two years of COVID and reduced in-person contact have been particularly hard on student organizations and peer mentorship. The natural mentorship and handover of leadership within student groups from one year to the next has been interrupted. For this reason, perhaps among others, the participation of various student groups, notably those who advocate for underrepresented and equity-seeking groups was more limited than might otherwise have been. We note this reality only to be transparent about the scope of the IRP's consultations. That said, again, the IRP met with approximately 100 members of the Bishop's community during this process, including persons who identified as members of one or more equality-seeking groups.

The IRP is grateful for the intense and positive engagement by those who participated in the consultation, as well as the consistent expressed desire for, and commitment to, progressive change. This positive engagement was present in all segments of the University: students, staff and faculty.



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The IRP wishes to make special mention of the important contributions made by the student leadership that most actively participated in the review, particularly the Sexual Cultural Committee and the Student Representative Council, as well as members of the Indigenous Cultural Alliance, all of whom provided concrete and helpful information and analysis, and demonstrated an impressive, sophisticated, and thoughtful approach to the issues.

### ***Organization of the Report***

The specifics of the experiences of the student who posted the 'message on the bridge' are not known to the IRP. Bishop's hired an external investigator separate from the IRP process to investigate the message on the bridge, but to CCLISAR's knowledge no further report was made or direct information provided to that investigator.

The posting on the bridge, however, appears to reflect a more widely held view, at least as expressed by the students with whom we consulted, that students are hesitant to come forward with reports of sexual violence out of concern that nothing will happen.

The IRP's consultations revealed a number of issues and themes that explain some of the possible sources for the claim and belief that Bishop's University does not act on reports of sexualized violence.

Accordingly, the Report will start with a focus on the policy, procedure and structural issues which most directly relate to the message on the bridge: that Bishop's doesn't act or is perceived not to act in response to disclosures or reports of sexualized violence.

The Report will then consider other issues and recommended changes directed at building trust and addressing or preventing sexualized violence within the Bishop's community.

The IRP notes that this report does not address every possible change that Bishop's should consider undertaking. For example, this Report does not consider a line-by-line review of the *Policy For the Prevention of Sexual Violence* (the "Policy" or the "Sexual Violence Policy"), although there are areas in the Policy not discussed in this report that would benefit from revision and review.<sup>3</sup>

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<sup>3</sup> For example, the requirement under the Policy that staff and faculty intervene in situations of sexual misconduct or aggression to prevent them from escalating or degenerating, while well-intentioned, is unclear and potentially risks an 'intervention' outside of the Policy instead of a disclosure or report processed within

The issues and themes that emerged in the consultations, and the IRP's recommendations to Bishop's in response to these issues, are as follows:

- A. Address Pervasive Confusion About “Disclosing” and “Reporting” Sexual Violence**
- B. Create a Sexual Violence Support Centre and Streamline Reporting Options**
- C. Clarify and Strengthen the Jurisdiction of Bishop's to Respond to Off-Campus (Including On-line) Conduct**
- D. Improve and Strengthen the Use of Immediate Measures**
- E. Avoid Silencing Survivors Through NDAs and Mutual No-Contact Orders**
- F. Restructure the Roles and Responsibilities of the Dean of Student Affairs and General Legal Counsel Under the Sexual Violence policy**
- G. Role of Legal Counsel for Bishop's University**
- H. Focus on Hot Spots and Specific Areas of Concern**
  - Athletics
  - the GAIT
  - Enhanced Support for Residence Life Staff
- I. Build an Intersectional Approach into the Structure**
- J. Improving Diversity in Student Services Related to Sexualized Violence**
- K. Amend the Sexual Violence Policy to Include Supports for Respondent Students**
- L. Amend the Sexual Violence Policy to Clearly Prohibit Faculty-Student Relations**
- M. Aggregate Reporting and Report on Implementation of this Report**
- N. Develop and Implement Training that is Evolving and Developed for the Specific Audience**

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the expertise intended by the Policy. See also the discussion of the policy in the final section of this report, “Summary of Policy Revisions.”



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## **A Few Preliminary Notes**

Before addressing the consultation themes and recommendations, the IRP wishes to make a few further preliminary comments.

The first preliminary comment relates to the IRP's mandate and the observations that we record in this report. The IRP's mandate was, in part, to listen and report on what we heard. We are not making findings of fact. For example, as will be discussed further in the section on Athletics, there was significant divergence between the accounts or experiences of students and those of the University's administration. Both current and former women student athletes consistently expressed the view that male sports were prioritized in terms of funding, promotion, and allocation of physical space. At the same time, the administration provided the IRP with detailed information about the investment by Bishop's in women's sports and affirmed that women's athletics are a priority. For the purposes of the IRP's consultations and report, both of these perspectives merit consideration and recognition. It may well be true, factually, that in the past few years Bishop's has invested significant fundraising efforts, funds and profile to women's sports. At the same time, it is also the case that some women athletes do not experience their prioritization in the way that Bishop's administration reports, intends or hopes. Students' and others' experiences and perspectives are real and are appropriately reflected in this report. To the extent that the perception and institutional reality of these goals are misaligned, there is an important gap that Bishop's needs to work to close.

The second preliminary comment relates to 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. The word "complainant" refers to a person who has made a report to the University for the purpose of triggering an institutional remedial or disciplinary 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 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:

“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>4</sup>

A trauma-informed approach includes an understanding of the ways in which systems of oppression, including racism, colonialism and homophobia may inform victimization and the diverse ways in which individuals and communities may resist or respond to violence. Definitions of a trauma-informed approach also frequently 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>5</sup>

#### **A. ADDRESS PERVASIVE CONFUSION ABOUT “DISCLOSING” and “REPORTING” SEXUAL VIOLENCE**

The IRP’s consultations revealed (or confirmed) that there is considerable confusion about what Bishop’s Policy for the Prevention of Sexual Violence says and how it works. This confusion is not just evident among students, but faculty and staff as well.

In January 2021, Bishop’s Sexual Cultural Committee (a student organization founded in December 2020) and the Student Representative Council released a survey “to assess raw data about the frequency of sexual assaults...resources awareness and satisfaction, and outcomes of seeking formal and informal complaints about the university.”<sup>6</sup> Of the students

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<sup>4</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>5</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>.

<sup>6</sup> Sexual Cultural Committee, End of Year Report and Recommendations (2021)



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that responded to the survey<sup>7</sup>, the top five reasons given for not filing a complaint with the University included:

- unclear process
- didn't know where to begin
- unsure of outcomes

A year later in the IRP's consultations, and despite Bishop's training efforts, a surprising number of students still said that they wouldn't know where to go or what to do if they experienced sexual violence.

In our consultations, some students thought that reports of sexual violence were required to be reported to security. Others thought reports needed to be made to the Dean of Student Affairs. Most believed that if an incident occurred off-campus, the only place to report was the police.

In the updated "[Report A Sexual Assault](#)" section of the Bishop's website, legal counsel for Bishop's is listed as both a resource for legal advice, and also as an option for submitting a formal report. As discussed below, while well-intentioned, we view this as a conflict of interest and a potential further source of confusion for Bishop's community members.

In discussions with some Bishop's staff, there was clarity that persons who have experienced sexual violence should be referred to the "Sexual Aggression Response Coordinator" ("SARC"). Until the December 17, 2021 update to the Policy, the role of the SARC was not defined in the Policy. The Policy defined the "Sexual Violence Support Centre" (SVSC or, in this report, the "Centre"), as follows:

The Sexual Violence Support Centre ("SVSC") is the primary resource for response and support in the case of sexual violence as well as coordinating all education, training and communication to the community regarding sexual violence as set out in this policy.

Although the Centre was defined as the primary resource for response and support in cases of sexual violence, prior to December 2021, the Centre and the SARC were only referred to in one section of the Policy, under the heading "Informal Resolution of Concerns of Sexual

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<sup>7</sup> The response rate was approximately 7% of the student body. A summary of some of the survey questions and answers can be found at Annex C to the [2021-22 Action Plan for the Education and Prevention of Sexual Violence](#).

Violence.” Accordingly, until very recently, on a review of the Policy it would not be clear to a reader that the place to disclose and get information about options or next steps, was the Centre or the SARC. This will be discussed further below.

The Policy and procedures are also not clear in terms of a student seeking accommodations arising from sexualized violence, including lack of clarity as to whether that student should approach the SARC, the Dean of Student Affairs or other services within the University.

In addition to the ambiguity of ‘where’ to disclose or report, there was significant confusion as to what it even means to “report” sexual violence. The language of the Bishop’s Policy distinguishes between a “Disclosure”, “Report” and “Complaint” of sexual violence. Under the Policy, a “Disclosure” refers to a survivor coming forward to share their experience of sexual violence with a view to obtaining confidential support, assistance or accommodation. A “Report” occurs when information about an incident is brought to the attention of the University, but where no “recourse, support or follow up” are requested. In contrast, a formal “Complaint” triggers a formal response, typically in the form of an investigation, from the University. Most anglophone post-secondary institutions (PSIs) distinguish between a “disclosure” and a “report” with the former being for the purpose of accessing support, accommodations or, where available, interim or immediate measures; and the latter triggering an investigation or other formal process at the institution.

In the IRP’s consultations, participants were not clear on the distinction between these three steps that survivors might take. This problem is not unique to Bishop’s but is a source of confusion at many PSIs across Canada. Students or staff may think that they have “reported” to the institution by revealing an experience of sexual violence to a trusted person within the institution, such as a professor, while the person who receives the disclosure may understand that they have a duty to hold the information shared in strict confidence. This confusion is compounded by the fact that most persons who experience sexualized violence will disclose first to someone they trust, whether a friend, teacher/professor, residence advisor, counsellor, etc.

The confusion as to what it means to “disclose”, “report” and file a “complaint” under Bishop’s Policy was evident amongst students and faculty/staff. The IRP asked many consultation participants to explain to us what they understood the reporting process to be, and the differences between these terms. One employee, for example, explained that a “disclosure” is “telling someone”, a “report” is “telling campus security” and a “complaint” is a formal complaint to Bishop’s University General Counsel. Another consultation participant explained that if a survivor wants the respondent removed from a shared class, the survivor



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student should “go and talk to the Dean of Student Affairs.” The above understanding/misunderstanding of the Policy may explain why so many students we met understood that if they wanted to “report” an incident, they needed to go to security, and not the SARC. It also explains why so many students understood that the University taking action with respect to an incident of sexualized violence required direct communications with the Dean of Student Affairs about the incident.

It is critical that Bishop’s sexual violence policy, procedure and practices, and any education and training around the Policy, address these misconceptions. Bishop’s must aim to ensure a clear, shared understanding of how survivors can obtain support, accommodations, and/or immediate measures and how they can take steps that will launch an investigation. The Policy (and training around the Policy) must make it clear that a *disclosure* to a trusted person is not a “complaint” or “report” to the University, triggering the steps under the Policy for the University to take action that impacts the respondent.

Further, as will be discussed in the next section, all requests for accommodations and all reporting (to trigger an institutional response) should be processed through the Sexual Violence Support Centre. This approach is trauma informed, as it ensures that a survivor only needs to tell their story once to a person trained to receive it and is not required to repeat the story multiple times in the process. A centralized and specialized office for receiving disclosures (for accommodations and supports) and reports (for formal responses) is also designed to ensure consistency of approach, and to create one location within the institution that has a systemic view of the experiences and trends relating to sexualized violence on campus that is as comprehensive as possible.

In March 2022, Bishop’s adopted the REES (Respect Education Empower Survivors) on-line platform for reporting. The REES platform offers multiple reporting options, including anonymous reporting and connection to the SARC (Sexual Aggression Response Coordinator). The IRP views the adoption of an on-line reporting platform as a positive step. It is noted that the information on the REES will be shared with the Sexual Violence Support Centre for follow-up as appropriate. The flow of information from the REES to the Centre maintains the role of the Centre as the central point for tracking and responding to issues of sexual violence on campus.

## **Recommendations:**

1. Bishop's Policy for the Prevention of Sexual Violence should be amended to minimize the number of terms for reporting from three to two (i.e. limit it to "disclosure" and "report") and streamline the process so that all disclosures for accommodations and supports and all reports to trigger an immediate measure or investigation are processed through the Sexual Violence Response Centre (whether directly or following an on-line report through the REES platform).
2. The Sexual Violence Policy should provide a step-by-step guide setting out the disclosure and reporting processes, the criteria on which decisions are made, and who the decision-maker/s is/are. Accessible flowcharts and plain-language materials explaining the process (such as those developed by the Sexual Cultural Committee) should be further resourced and developed.
3. Staff and faculty should be trained on how to receive a disclosure of sexualized violence, including training on:
  - a. How the Policy works, including the obligation on faculty/staff to refer the survivor to the Centre, and ensuring faculty/staff have an in-depth knowledge of the difference between a "disclosure" and "report", and the options for survivors (e.g. accommodations, immediate measures, investigation) and how to access them.
  - b. Receiving a disclosure in a manner that is trauma-informed and culturally responsive, including by avoiding questions or responses that are premised on discriminatory social assumptions, rape mythology, and harmful attitudes about women or sexualized violence.
4. Student training, including bystander training, should ensure that students understand:
  - a. The difference between a "disclosure" (for accommodations and support) and a "report" (to trigger an immediate measure, remediation or a disciplinary consequence on the respondent)
  - b. Where to disclose and report (the Centre/REES).



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## **B. CREATE A SEXUAL VIOLENCE SUPPORT CENTRE AND STREAMLINE REPORTING OPTIONS**

### ***Create a Sexual Violence Centre External to Health/Counselling Services***

As mentioned above, Bishop's policy in place since December 2018/revised September 2019, referred to a Sexual Violence Support Centre and established the role of the SARC.

The December 2021 updated Policy clarified and strengthened the role of the SARC, defining the role as follows (s.2.4.10 of the Policy):

The Sexual Violence Support Centre ("SVSC") is the primary resource centre for response and support in the case of sexual violence as well as coordinating all education, training and communication to the community regarding sexual violence as set out in this policy.

The SARC acts as a primary point of contact for members of the University community who have experienced any form of Sexual Violence or need advice on how to address an incident of Sexual Violence that has been disclosed to them. The position of the SARC has been created to ensure that the University's response to Disclosures of Sexual Violence is coordinated, trauma-informed and survivor-centric. The SARC is the lead responder in cases of reported Sexual Violence and, with the consent of the survivor, shall act as their voice, where needed, and to coordinate the resources offered.

The spirit of, and commitments made in, the above amendments to the Policy are a positive and significant step in the right direction.

The SVRC, however, is not really a separate entity or Centre, and is comprised of the single employee who holds the position of the SARC situated in the Bishop's Student Services Centre.

Most students told the IRP that they did not know where the SARC office was physically located.

The SARC is only available during "business hours."

The perception of the majority of students with whom the IRP consulted was that the SARC's primary role is to provide sexual-violence specific counselling and emotional support, as well as prevention through education. The current SARC is a trained social worker, and counselling is a significant part of her role. No doubt due to a combination of the therapeutic (and thus confidential) component of the role, and the reality that delivering education, training, prevention, counselling, and other forms of support for sexual violence is a job much bigger than can be performed by one person, the perception on campus is that the SARC lacks sufficient visibility and time to devote to the *non-counselling* aspects of her role. This is a structural issue, and we are not impugning, or attributing any real or perceived lack of visibility of the SARC as a failing of any person who holds or who has held the position.

Another challenge with the SVSC being synonymous with just one staff person, is that the success and reputation of the University's sexual violence response relies heavily, if not exclusively, on how students individually and as a group perceive that one person.

The IRP acknowledges that Bishop's has not waited for the IRP to complete its report to identify an action plan for certain change. The 2021-22 Education and Prevention of Sexual Violence Action Plan (March 2022) already recommends (and commits the University) to hiring a second SARC, with an emphasis on a candidate from an equity seeking group to improve diversity and better address concerns about the cultural responsiveness of the services provided. We applaud this step.

The IRP recommends that, staffed by at least two persons, the SVSC should be envisioned as a Centre, with a separate identity and visibility that transcends the identities of the two individuals staffed by it. The Centre should also have a physical location independent of Health and Wellness/counselling and be accessible to students as well as staff. Ideally, the physical space should also be somewhat discrete, so that students and staff can access the Centre without identifying as survivors.

Building and bolstering an independent "Centre" (rather than a staff position or positions) at Bishop's presents a real opportunity to bridge the trust-gap, as well as to promote sexual violence education and prevention more actively and effectively.

The IRP consulted with Bishop's community members about the best location for the re-envisioned Centre. On the one hand, there could be benefits to housing the Centre with other equity-focused offices, such as that of the EDI Specialist, thus better facilitating a focus on the intersections between sexualized violence and other forms of systemic oppressions



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(such as on the basis of race, Indigeneity, sexual or gender identity, or migration status). On the other hand, we were reminded that priority needs to be given to accessing the Centre discretely, as well as a concern that combining the Centre with LGBTQ2S, Indigenous or racialized student groups could risk reinforcing stereotypes around victimization.

The IRP acknowledges the reality that space is at a premium at Bishop's, as it is at most universities.

After hearing various perspectives and ideas as to where the Centre should be located, and acknowledging the realities that no perfect space is immediately available, the IRP recommends that for a two-year period, the Centre be housed where Bishop's United is located, with careful attention being paid to ensure that there are times for survivors (and others) to access the centre when there are no competing student groups or events in the space. During this two-year pilot period, the IRP recommends that the University consult with the SCC, SRC, EDI specialist, Indigenous Students Advisor, as well as other student groups (such as BU United, Spectrum and CASA) to assess the location of the Centre, with a goal of moving the Centre to one of the Bishop's owned houses on MacKinnon or Harrold streets.

Currently and in the future, the SARCs should also be available to meet with students and staff through an on-line meeting platform (e.g. zoom or Teams). This channel for communication would increase the outreach and accessibility of the Centre.

### ***Clarify the Advocacy Role of the SARC***

Part of the success of the new Centre will flow from a re-envisioned role for the SARC under the policy and in practice.

Survivors and those supporting them are more likely to reach out to the Centre if the role of the SARC is expressly one that involves something more than listening and therapeutic support. While trauma informed and culturally responsive listening and validation are essential, they are not sufficient.

The SARC needs to undertake an active role in assisting the survivor to navigate the reporting options and process, help fill gaps in understandings or communications, and where appropriate, identify dropped balls (including helping to pick them up). The SARC's role should not be "neutral" but should be one in which the SARC actively coordinates supports for the survivor, follows up with administration on behalf of the survivor where appropriate

(particularly for student complaints), and plays a supportive role in ongoing investigations. At some institutions, the title of SARC has included the word “advocate” in order to emphasize the active nature of the role (although in French this word might cause confusion, suggesting that the SARC is assuming a near-legal role, which would be incorrect). Another word that could signal a similar meaning might be “navigator.” The SARC’s current title includes the word “coordinator”, which is also commonly used.

Whether through a change in title or through significant public education and promotion on campus, Bishop’s needs to signal to the community the shift in emphasis in the SARC’s role following the events of November 2021. In the future, if a disclosure is at risk of falling through the cracks, a re-envisioned Centre and SARC might be trusted as a resource to step in and ‘advocate’ for the student.

The IRP understands the recruitment challenge potentially faced by Bishop’s: that persons with the requisite interest and expertise in sexualized and gender-based violence and trauma-informed approaches may be trained and/or interested in counselling roles. Nevertheless, although the job competencies overlap, the roles should remain distinct.

The IRP supports Bishop’s decision to hire a second SARC and to prioritize hiring someone from an equity-seeking group with expertise in trauma-informed and culturally responsive practices and the dynamics of gender and sexualized violence.

### ***Streamline Reporting Options***

As mentioned above, persons who have experienced sexualized violence will in most cases first disclose to a trusted person. For students on campus, that person may be a Residence Life full-time or student staff (such as a Resident Assistant or Duty Helper), a trusted professor, a friend, a teammate, etc. Students and their support persons will also search Bishop’s website or review pamphlets or other materials to learn about options after an incident of sexualized violence.

The current information on the Bishop’s website (as of March/April 2022) provides a more streamlined approach to reporting than was previously the case (which directed students to a myriad of places, including security, the Dean of Student Affairs and General Counsel, in addition to the Centre). As well, as mentioned above, Bishop’s recently adopted the REES (Respect Education Empower Survivors) on-line platform for reporting.



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In the IRP's view, all persons who receive disclosures of sexualized violence should provide a consistent message to the survivor, directing the Survivor to the Centre as a "one stop shop" ("*guichet unique*") to: access accommodations or support; request an immediate measure imposed on the respondent (discussed further below); initiate an investigation; or receive information about these options and the supports the survivor will receive in pursuing these options.

The Centre should be the "one stop shop" for reports or complaints about sexualized violence in respect of learning, living, and working at Bishop's. For example, if a student experiences sexualized violence by a fellow student in their capacity as an employee of the University (e.g. at the library or in the context of employment as residence life staff), Bishop's staff should not be dealing with the employment incident only *qua* employer (e.g. by removing the respondent employee) outside of a process initiated through the Centre. As mentioned above, centralizing disclosures and reports better ensures a comprehensive response to the individual (e.g. addressing academic issues at the same, if the two employees are also in the same class) and systemic issues.

Finally, although the IRP is recommending a "one stop shop", the IRP recognizes that even with the Centre expanded to two people, those two persons will not reflect the identities or life experiences of all of the potential survivors who may need the Centre's support. A culturally responsive Centre will contemplate students relying on the support of others when attending the centre, including spiritual leaders or elders on campus, the Special Advisor Indigenous Student Support, and others. If in-person meetings are the preference of the survivor, the SARC should be available to meet in safe spaces outside of the Centre on request, where appropriate.

Discussed in a separate section below is the need for a separate structure for support for respondents under the Sexual Violence Policy.

### **Recommendations:**

The IRP recommends the following as it relates to the Centre and the SARC:

1. The Sexual Violence Support Centre should be envisioned and developed with a view to the Centre having a distinct presence at Bishop's.

2. The Centre should be located in a stand-alone location or, at a minimum, separate from Health and Wellness/Counselling. For a two-year pilot period, the Centre should be located where the BU Centre is located, with the goal of eventually housing the Centre in one of the houses owned by Bishop's on Mackinnon or Harrold streets (subject to consultations with the Bishop's community in recommendation #3 below).
3. During the two-year pilot period, Bishop's should engage in consultations with the Prevention Committee (see recommendation #1 under Build an Intersectional Approach into the Structure) and the student community with respect to the permanent location for the Centre.
4. The Centre should be staffed by two or more persons, whose roles include education, training and prevention as well as support and advocacy. Clinical counselling should be referred to the Health and Wellness Centre and should not be part of the role of the SARC.
5. Students may be supported by other persons when disclosing or reporting, such as the Special Advisor, Indigenous Student Support, the Chaplain or others. For international students, Indigenous students, and others, the SARC should be available to meet in safe spaces, such as the Special Advisor's office, rather than the Centre.

**C. CLARIFY AND STRENGTHEN THE JURISDICTION OF BISHOP'S TO RESPOND TO OFF-CAMPUS (INCLUDING ON-LINE) CONDUCT**

One area in our consultations in which community members of Bishop's perceived the University to 'do nothing' in response to sexualized violence, relates to off-campus incidents.

In terms of the scope of the Policy, the Bishop's Policy for the Prevention of Sexual Violence in effect as of September 2019 provided (emphasis added):

Incidents of sexual violence and cyber sexual violence are governed by this policy where they occur in a University context, meaning on University premises or on work or study sites under the University's control, or during the course of a Bishop's-sponsored activity. Conduct that occurs outside of the University's premises **may** also be deemed to have occurred in a University context and be governed by this Policy, where that conduct has a link to the University, affects a member of the University and impacts on the University learning, working or living environment.



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The Policy was revised in December 2021 to include the following language (emphasis added):

Incidents of sexual violence and cyber sexual violence are governed by this Policy where they occur in a University context, meaning on University premises or on work or study sites under the University's control, or during the course of a Bishop's-sponsored activity. Conduct that occurs outside of the University's premises **may** also be deemed to have occurred in a University context and be governed by this Policy, where that conduct has a **real and substantive** link to the University, **and** affects a member of the University and impacts on the University learning, working or living environment.

The IRP was advised that the addition of the words "real and substantive" link, was intended to clarify and strengthen the jurisdiction to investigate off-campus conduct.

The above definition of the jurisdiction or scope of the Policy clearly gives Bishop's the discretion to act when an incident of sexual violence involving, for example, Bishop's students, occurs off-campus, or in other circumstances where there is a nexus to the Bishop's learning, working, or living environment.

Nevertheless, we heard consistently that this jurisdiction has not been exercised or, at a minimum, that there is significant confusion as to when or whether it will be exercised and a perception that it will not be exercised for most off-campus conduct.

We heard this concern about jurisdiction in relation to off-campus conduct by current Bishop's students, but also relating to past incidents involving other members of the University community (such as staff and volunteers), where the complainant student was a current student and the incident(s) occurred off-campus. There was a perception expressed by participants from different locations within the University that Bishop's will use jurisdiction as a reason not to act or take responsibility for a report. It is critical that Bishop's address this perception.

The Bishop's University campus is to some extent a shared campus with Champlain College. For example, the John H. Price Sports Centre facility is shared with Champlain, and is also regularly used by local schools and other groups. The University library is similarly used by Champlain and broader community members. Unique issues arise when the respondent (or complainant) student in a sexual violence disclosure or report, is a Champlain College

student. The shared nature of the Bishop's campus makes it imperative that Bishop's students not be told (or given the impression) that an incident involving Champlain students is a problem exclusively for the other institution and that Bishop's can do nothing.

In general, many universities and colleges across Canada have increasingly accepted that as a matter of human rights law, as well as best practice, their sexual violence policy should have broad application. In theory, a complainant could bring a human rights application against a university for failing to respect their human rights to access a discrimination-free learning, working, or living environment if, for example, the university fails to investigate or impose measures on a respondent student on the sole basis that the location of the sexual assault was off-campus.

Some institutions use permissive language to exercise jurisdiction, such as that currently in Bishop's policy. Other institutions, such as McGill University, employ mandatory language.

Paragraph 25 of McGill's Policy Against Sexual Violence provides as follows (emphasis added):

The University will investigate a Report where the alleged Sexual Violence occurred in a University Context and where the Respondent is, at the time the Report is made, a Member of the University Community.

Under s.7(n) of McGill's Policy, the definition of "University Context" includes "off-campus conduct, including online or in social media", where:

...the conduct has consequences that may be reasonably seen to adversely affect:

- the safety of students, faculty or staff while on campus or while participating in a University-sponsored program, event or activity; or
- the right of a Member of the University Community to use and enjoy the University's learning or working environment.

Due to the pervasive understanding among the Bishop's community (whether accurate or misconceived) that Bishop's will decline to investigate or take steps in response to off-campus incidents, the IRP recommends that the language in Bishop's Sexual Violence Policy with respect to jurisdiction be amended to use mandatory as opposed to permissive language. Such a change will provide clarity to community members and administrators. It will also address what we consider a gap that could give rise to a failure by Bishop's to meet



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its human rights obligation to survivors, and which, regardless, appears to have generated discontent and mistrust within the Bishop's community vis-à-vis its responses to sexual violence.

The change in language proposed by the IRP is as follows:

Incidents of sexual violence and cyber sexual violence are governed by this Policy where they occur in a University context, meaning on University premises or on work or study sites under the University's control, or during the course of a Bishop's-sponsored activity. Conduct that occurs outside of the University's premises, including on-line, **may will** also be deemed to have occurred in a University context and be governed by this Policy, where that conduct has a **real and substantive** link to the University, **and** affects a member of the University and impacts on the University learning, working or living environment.

Different PSIs use different language to give effect to a mandatory jurisdiction to investigate. The [University of Manitoba Sexual Violence Policy](#), for example, states (at s.2.9) that "The University will investigate allegations of Sexual Violence in relation to a University Matter in accordance with the Procedure." The University of Manitoba Procedures under the Policy go on to define "University Matter" as "any activity, event, or undertaking in which a member of the University Community participates, which has a substantial connection to the University" and then provides a long list of examples, including, in respect of off-campus conduct: "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."

In the IRP's view, the language of the current policy, adjusted minimally as recommended above, captures the intention that sexualized violence will be addressed under the Policy (including immediate measures and investigations) where there is an ongoing nexus to the University community. For example, Bishop's would not necessarily be required to investigate a report (although it could take other action) where the respondent student is no longer on campus. Since the language of "real and substantive link" might not be clear to students and staff, Bishop's should develop explanatory materials that provide a few common examples of conduct that is and isn't captured by the Policy.

Further, the IRP recommends that the Policy define a “Member” of the Bishop’s University community (for the purposes of the Policy) broadly enough to encompass, for example, interns, volunteers, or others who are providing services to, or are involved in, Bishop’s University programs or activities.

To be clear, however, although the University should respond where, for example, a staff person or student is sexually harassed by a contractor or volunteer, this doesn’t mean that a full investigation under the Policy with procedural rights for the third party always needs to be undertaken. For respondents who are not students or staff, Bishop’s may be able to take more expedient action, such as cancelling the contract of a third-party service provider or prohibiting a volunteer or other person from entry onto campus.

**Recommendations:**

1. Bishop’s should amend its Sexual Violence Policy to clarify that the Policy applies to off-campus conduct and that the University will investigate all reports involving off-campus conduct where there is a real and substantive connection to the University and the learning, working and living environment at the University.
2. Bishop’s should ensure that its plain-language materials about the reporting process under the Policy, explain the scope of the Policy and provide a few common examples of conduct that is and isn’t captured by the Policy.
3. Bishop’s should develop a publicly available protocol with Champlain College for a joint response and investigation process where incidents of sexual violence involve student complainants or respondents from both of the respective institutions.

**D. IMPROVE AND STRENGTHEN THE USE OF IMMEDIATE MEASURES**

Immediate measures following a disclosure are an underutilized resource for PSIs and present an approach to addressing the immediate needs, health, safety, and well-being of complainants, in a manner that can be balanced with the rights of the respondent. The availability of immediate measures following a disclosure also addresses the risk of a survivor feeling that the institution “did nothing” to the perpetrator, and that the survivor bears the brunt of any and all accommodations. In more extreme (but unfortunately not uncommon) cases, the unavailability of measures imposed on a respondent can lead to serious harm to survivors, including their withdrawing from classes and even dropping out. Immediate



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measures can also benefit respondents, in the sense that a formal investigation (and finding of breach) may be avoided where the immediate measures meet the needs of the complainant, and the respondent agrees to their remaining in place over a longer term.

Bishop's policy permits Bishop's to impose "Immediate Measures" on a respondent student when a "report" or "disclosure" is made. The Policy expressly states that "Immediate measures may impact the Respondent and the Complainant" (thus suggesting that a disclosure by a survivor could result in measures being imposed on the survivor, which could be a barrier to survivors asking for such measures). Immediate measures are "preventative", they must be "implemented within a period of seven days" (although it is unclear whether this is seven days from the reported incident, or seven days from the disclosure or report), and the measures taken must be reasonably necessary to "protect and support the complainant and the University" in accordance with the Student Code of Conduct.

Beyond incorporating by reference the University's Student Code of Conduct, the Sexual Violence Policy does not further explain the process for imposing Immediate Measures or the rights of the respondent student when such measures are contemplated being imposed or are imposed.

The language of the Bishop's Policy is both strong and flexible, in terms of giving Bishop's considerable scope to impose preventative immediate measures on a respondent student in order to "support" the complainant. The policy does not require a survivor to make a formal complaint in order to access immediate measures imposed on a respondent student.

Unfortunately, the IRP was advised that beyond (mutual) no-contact orders following a disclosure or report, the use of immediate measures in response to disclosures of sexual violence was limited. Specifically, measures such as removing a respondent from a class (to on-line learning or another class-time), changing a respondent's placement, or moving them to another residence (or from residence), are not immediate measures that community members with whom the IRP consulted believe have been imposed over the last number of years.

One student who gave permission for their experience to be referenced in the IRP's report advised us that after they reported, their second-year courses were all changed at the last minute, without any advance notice to them, in order to avoid contact with the

respondent who was also in the same program. The student reported that they were also put into an independent study as an accommodation, again without prior consultation. Further, these changes had spillover effects, delaying the student from achieving a prerequisite course necessary to complete a placement on time. Of relevance to other discussions above and below, the student advised us that they were repeatedly told by various representatives of Bishop's to report to security. When asked why they didn't report to the SARC, their reply to the IRP was: "there is one?". The student described a process where after they disclosed or reported to Bishop's, there was little to no follow up or response. They described being left hanging, not knowing what happened with the information they provided. This is an example where a centralized office, in which survivors are supported by a SARC with a defined advocacy role, would help to: bridge gaps, streamline processes, follow-up with administration when a response is outstanding, and follow-up with the student by way of check-in to ensure circles are closed.

In terms of this student's experience of being granted accommodations that ultimately disadvantaged them, immediate measures offer a potential solution.

Although protective and precautionary (and not punitive) in nature, immediate measures may nevertheless affect the respondent in a non-trivial manner. They may alter the respondent's class schedule or possibly necessitate that certain courses be completed on-line or by way of independent study; impose limits on access (or times of access) to certain buildings or spaces on campus (e.g. the library, gym, theatre, etc.); require a change in residence (or removal from residence); and/or prohibit contact with the complainant. In the consultations, the IRP heard repeatedly that students would also like to see measures enforced against respondents in terms of participation in various social activities, such as a ban from attending the campus pub, the GAIT (discussed further below) and other events. It would be the very rare case where a respondent student would be subject to a campus-ban or suspension as an immediate measure, but such outcome should also be possible in extreme circumstances or grave risk. Based on the IRP's consultations, the fact that respondents are unlikely to be suspended as an immediate measure, does not meet the expectations of some Bishop's community members. It was noted that at least some of those consulted expected that immediate measures would include immediate suspension. The IRP recommends a more nuanced, structured and legally defensible approach (rather than automatic suspension) to immediate measures that respects the rights of both the survivor and the respondent.



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The IRP recommends that Bishop's exercise and build on the existing policy's authority to impose measures on a respondent following a disclosure or report (as defined under the Policy). The procedure for imposing immediate measures should be trauma-informed, clear, detailed and procedurally fair to complainants and respondents alike. Such a process has the potential to meet the goals of ensuring the educational/living/working safety and flourishing of complainants and protecting the procedural fairness rights of respondents. In some or possibly many cases, it might also avoid putting both parties through an investigation. A model policy for Immediate Measures is attached as Schedule C.

### **Recommendations:**

The IRP recommends that:

1. Bishop's exercise and build on the Policy's authority to impose measures on a respondent following a disclosure. The Sexual Violence Policy should be amended to include a detailed procedure for imposing Immediate Measures that would respond to the needs of complaints but also ensure a fair process for the respondent. Model Immediate Measures policy provisions with suggested procedural steps are attached as Schedule C and are adapted from CCLISAR's model policy.<sup>8</sup>
2. When a disclosure or report is made, the complainant should 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.
3. The complainant should be given an opportunity to share their health, safety, and living/education needs and concerns with the SARC and/or make submissions to the Dean of Student Affairs who will determine any immediate measures. The respondent will similarly be provided with the opportunity to make submissions on the imposition of Immediate Measures, either before the Immediate Measures are imposed, or as part of a request for the review of the decision to impose Immediate Measures.

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<sup>8</sup> The CCLISAR Model Policy was developed for the CCLISAR Review of the policies and procedures at [StFX University](#) and the section of the policy on Immediate Measures was recommended in the CCLISAR Review of the Mount Allison University policies and procedures.

4. The Student Code of Conduct should not be “pivotal” as a guide to Immediate Measures or any other process in the Sexual Violence Policy. The Sexual Violence Policy should be a complete code and stand-alone document for students.<sup>9</sup>

## **E. AVOID SILENCING SURVIVORS THROUGH NDAs AND MUTUAL NO-CONTACT ORDERS**

### **E. (1) MUTUAL NO-CONTACT ORDERS**

When a survivor discloses or reports to Bishop’s and asks for (or is offered) a no-contact order as a protective measure, the practice at Bishop’s is to automatically make that no-contact order mutual (or “bidirectional”).

It is reasonable to expect that a survivor who seeks or requires a no-contact order for their own protection and continued access to working/living/learning at Bishop’s, will not then contact the respondent. However, from the perspective of the lived experience of complainants, it is another matter for a survivor to disclose and then be subject to an order themselves. Mutual no-contact orders can be a barrier to reporting and/or experienced by the survivor as a symbolic gag imposed on them by the institution. Further, a mutual no-contact order can be confusing. What if both parties are at the gym; who is required to leave?

The IRP recommends that mutual no-contact orders not be automatic and that no-contact orders be imposed on the respondent student only, except where the circumstances of the particular case make a mutual no-contact order appropriate.

#### **Recommendations:**

1. No-contact orders following a disclosure or report of sexual violence should not automatically be mutual or bi-directional. Mutual no-contact orders should be the exception and not the rule.

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<sup>9</sup> Collective agreements will always be a separate binding document for faculty and unionized staff.



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## **E. (2) CONFIDENTIALITY/NON-DISCLOSURE AGREEMENTS**

Under the current Bishop's Policy and practice, when a complainant or respondent participates in a formal complaint, they are asked to sign a standard form "non-disclosure form." The non-disclosure form prevents both parties from speaking about their experiences outside of the investigation, as follows:

I hereby agree to keep the information in this case confidential, unless I am authorized or obliged to disclose it, either by the Policy or by law.

The "NDA" is not limited in time (e.g. for the duration of the investigation) nor scope, in the sense that it does not, for example, carve out exceptions that would permit the parties to speak to persons in their network of support. The document does, however, appear to contemplate that both parties will have a support person, who must similarly sign the agreement. (It is noted that while the NDA form provides almost no exceptions for disclosure, the updated Policy (December 2021) states at s.10.2 that "complainants, respondents and witnesses are expected to keep the details of any case confidential outside of their immediate circle of support (e.g. their named support person, as well as immediate family members), in order to ensure the integrity of the investigation and decision-making process").

To some extent, this impregnable NDA could be seen by some parties (both respondents and complainants) as helpful and protective, insofar as the NDA prohibits any form of unintended leakage or gossip in the small Bishop's community.

On the other hand, survivors consistently report the fear of being gagged as a significant barrier to formal reporting.

The current Bishop's "NDA" which has no time limit, may discourage reporting because survivors may understand that, as a result of reporting to the University, they are prevented from ever talking about their experiences, whether with their friends or others.

The NDA also prevents any sharing of the outcome of the process, either by the respondent or complainant. Survivors would be justifiably reluctant to participate in a process, the outcome of which they can never discuss.

The IRP's view is that confidentiality terms under sexual violence policies are intended to maintain the integrity of the investigative and disciplinary processes and to prevent ostracism and retaliation. Participating in a university process, however, does not make permanently confidential a person's own life experiences. Confidentiality requirements that extend beyond the investigation in cases involving students, relate to information of others that the participant became aware of as a result of the investigation.

At other PSIs, the scope and purpose of confidentiality expectations of complainants and respondents is set out explicitly in the sexual violence policy. At the outset of the investigation, these confidentiality expectations are explained to the complainant/respondent by the investigator, and the participant confirms their agreement to these expectations before the investigation proceeds. The IRP was told that at Bishop's, a written form for students is unnecessarily intimidating and formal.

**Recommendations:**

1. Bishop's should amend the Sexual Violence Policy to set out the expectations of confidentiality for participants (complainants, respondents and witnesses) in ongoing investigations, emphasizing the need to maintain the integrity of the investigation. The confidentiality expectations should, however, permit complainants and respondents to use discretion to share information with therapists, family members, and trusted persons for the purposes of support. The confidentiality obligations should not prevent participants from discussing their own life experiences after the conclusion of the investigation, nor should they permanently restrict students from discussing the outcome of the investigation.
2. Participants in sexual violence investigations should not be required to sign an "NDA" form.

**F. RESTRUCTURE THE ROLES AND RESPONSIBILITIES OF THE DEAN OF STUDENT AFFAIRS AND GENERAL LEGAL COUNSEL UNDER THE SEXUAL VIOLENCE POLICY**

***Role of the Dean of Student Affairs***

The Bishop's policy places numerous, and potentially conflicting, responsibilities on the shoulders of the Dean of Student Affairs. To be clear, the discussion below is in no way a negative comment on the current Dean, who we see as charged with significant, complex



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responsibilities in connection with the University's efforts to prevent and respond to sexual violence and diligent and dedicated in her execution of her responsibilities. The Dean of Student Affairs' role involves oversight, decision-making, and active involvement or intervention.

Specifically, under the Policy, the Dean of Student Affairs:

- "is responsible for managing sexual misconduct involving students";
- "is responsible for coordinating the Sexual Violence Support Centre";
- "intervene[s] in a positive way to resolve misconduct before it degenerates"
- "directs those involved [in sexual misconduct] to appropriate resources" [s.2.4.6];
- Provides "advice and support" to students and to the Student's Representative Council "to resolve" sexual misconduct; [s.2.4.8];
- Provides advice and support to faculty, librarians, and contract faculty on "how best to manage" situations or behaviour that constitutes or could become sexual violence [s.2.4.3];
- Provides guidance/consultation to the general counsel of the University in counsel's capacity as the "Assessor" (Investigator) under the Policy. Specifically, the Dean of Student Affairs may be consulted by the Assessor to determine the "best approach" to investigations in cases involving students [s.2.4.11];
- Is a co-administrator of the policy [s.4];
- Is the decision-making authority for Immediate measures if the respondent is a student [s.9.2]; and
- Receives the investigation report in formal complaints, and decides remedial and disciplinary measures to be imposed on the respondent student [s.9.4].

As one student in the consultations put it: "all roads lead to the Dean of Students."

The multiple and significant expectations placed on the Dean of Student Affairs is of significant concern to the IRP for a number of reasons.

First, the Dean of Student Affairs is a senior position with multiple demands beyond the Sexual Violence Policy. It is difficult to imagine how the Dean of Student Affairs has the time and capacity to, for example, engage in a hands-on way to "intervene in a preventative way to resolve misconduct before it degenerates." A number of students in the consultations, including those who spoke very highly of the current Dean of Student Affairs, mentioned that

it can be hard to arrange a meeting with her. This is not surprising, given the many roles and responsibilities of the position.

Second, and perhaps more importantly, the roles under the policy are in potential conflict. This structural problem puts the institution at risk of criticism, including criticism that the University didn't act. The Dean of Student Affairs is expected to meet directly with students under the Policy. The purpose of these meetings may be to "manage" sexual misconduct or determine if it can be resolved in a preventative way. Students are also under the impression that they can (or should) turn to the Dean to discuss their experience of sexual violence, as a precursor to filing a formal complaint. In addition, the Dean of Student Affairs is involved in consulting on the investigation and is also an ultimate decision-maker for Immediate Measures and sanction. This puts the Dean of Student Affairs in a very difficult (and no doubt at times impossible) position. A senior decision-maker being involved first-hand in speaking to the survivor and gathering information can easily lead to misunderstandings or elevated and incorrect expectations by survivors of what will come from that meeting. It could also lead to procedural fairness concerns by respondent students.

In the IRP's consultations, the IRP heard repeatedly from students (all via second-hand or third-hand accounts) that one of the problems with Bishop's sexual violence policy and procedure, is that survivors would disclose or report and then find themselves in a face-to-face meeting with the Dean of Student Affairs and the perpetrator/aggressor. The risk of disclosing and then being forced into a meeting with the perpetrator was raised many times as a barrier to reporting at Bishop's. The Dean of Student Affairs, however, informed the IRP that such a meeting is not the practice, and that she has not before met with a survivor and respondent together. The Dean of Students Affairs also explained that she could only imagine such a situation occurring if it were at the specific request of the survivor.

The IRP is concerned that this divergence in accounts of the process reaffirms the confusion and mistrust within the University community. It further underscores the importance of a Sexual Violence Support Centre and a clear, structured process under Bishop's policy for disclosing, reporting, filing complaints and/or accessing Immediate Measures.

In the IRP's consultations, it was discussed that students sometimes reach out to the Dean of Students directly. From the IRP's consultations, however, students seem largely to be disclosing or reporting to the Dean of Students because that is their understanding of what is required by the process. The IRP anticipates that with education on the Policy, training and promotion of the re-envisioned Centre and role of the SARCs, it will be the exceptional case that the Dean of Students will be put in the position of receiving disclosures first-hand.



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**Recommendations:**

1. The role of the Dean of Student Affairs under the Policy should be narrowed. The Dean of Student Affairs should not be the site for gathering first-hand disclosures or reports of sexual violence.

**G. ROLE OF LEGAL COUNSEL FOR BISHOP'S UNIVERSITY**

Under the updated December 2021 Sexual Violence Policy and practice, general legal counsel for Bishop's plays a number of roles: (1) providing advice to survivors about the process; (2) receiving complaints and determining whether the complaint will be investigated; (3) investigating complaints and making findings of fact and breach, as well as recommendations on sanction; and (4) advising the University on the sexual violence procedure, including risk assessment and whether Immediate Measures should be imposed.

On the Bishop's website (as at May 2022), under "[Report a Sexual Assault](#)" students were informed that in addition to the SARC, the legal counsel is a resource on campus<sup>10</sup>:

The legal counsel at Bishop's is available at no charge for confidential discussions regarding a possible disclosure to provide legal advice and can also receive formal complaints.

Formal complaints under the Policy may be submitted in a variety of ways (now including through the REES) but are always conveyed to the General Counsel.

When a formal complaint is made under the Policy, the General Counsel is the "Assessor" (s.2.4.11) who acts as the investigator or determines whether an investigation should be conducted by an external investigator. The Assessor may dismiss a complaint on the basis that it is made in bad faith, is abusive or patently unfounded (s.9.1). Following an investigation, the Assessor makes findings of fact and breach, as well as recommendations for disciplinary action or sanction (s.9.3).

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<sup>10</sup> The IRP has been informed that this information on the website has since been removed.

While not explicit in the Policy, the IRP's understanding is that the General Counsel (appropriately) may be involved or consulted in risk assessments and/or determinations as to whether Immediate Measures should be imposed following a disclosure or report.

The spirit of the offer by Bishop's for General Counsel to meet with survivors, and to provide them with information and advice prior to a disclosure, report, or complaint, is commendable. The IRP, however, questions whether it is appropriate for General Counsel for the University to provide this service to students, as it gives rise to a real or perceived conflict of interest. Fundamentally, the role of General Counsel is to protect the University. One can certainly argue that reducing misunderstandings about the sexual violence reporting process is aligned with institutional risk management. But, in any case where a student has experienced sexual violence on campus, there is also inherently the risk of liability for the University and thus the interests of the University and students concerned may be misaligned. Even where there is no risk of institutional liability, students and other community members may well perceive the legal counsel's role as protective of the University and thus not at its core committed to the best interests of the survivor. There is also the concern that if General Counsel is providing advice to complainant students who may be considering making a report, this role then puts General Counsel in a conflict of interest when providing advice to the University on imposing immediate measures or sanctions on a respondent student or more generally in respect of any steps taken under the Policy in relation to that student's complaint.

During the consultations, the IRP was advised that although Bishop's website has offered survivors the chance to consult with General Counsel, no student has in fact taken up this opportunity. During the May 2022 Expert Advisory Group meeting, the IRP was informed that General Counsel would no longer be listed as a resource to provide advice to survivors and as such, it is not necessary for the IRP to make any further recommendation on this role.

In terms of General Counsel's central role under the Policy as the "Assessor" (investigator who makes findings of fact and breach), the IRP understands that this role for General Counsel is the same as General Counsel's role under the Bishop's Policy on the Prevention of Harassment. The IRP acknowledges that a policy reason for using General Counsel as the Assessor under these policies is the fact that as a small institution, Bishop's lacks a stand-alone office for harassment and discrimination, which employs trained sexual violence/harassment and discrimination investigators as members of the Bishop's staff. University Counsel has the legal skills to undertake the investigation. Another policy reason for the use of General Counsel as the Assessor is that external investigations often take significantly more time to complete than investigations undertaken by General Counsel



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internally. Prioritizing quick investigations, no doubt, was intended to be trauma-informed and survivor-centred.

The IRP recognizes the internal constraints of smaller institutions but is nevertheless concerned that General Counsel's role as the investigator in formal sexual violence complaints raises the spectre of institutional bias. Again, one can argue that a thorough investigation that results in a finding of breach against an alleged perpetrator is aligned with the University's duties, its commitment to strong policy, and its risk management concerns (since a poorly executed investigation that results improperly in a finding of no breach, can land a university in public crisis). As the lawyer for the University, however, General Counsel does not hold a 'neutral' role or position. As well, as set out above, the General Counsel wears many hats under the Policy that are potentially in conflict, including being involved in risk assessment, determining Immediate Measures and advising the University on the complaint process while at the same time as acting as investigator.

With a view to ensuring the integrity of the complaint process and building trust, the IRP recommends that investigations be undertaken by individuals who have greater independence. The IRP recommends that for a pilot period of three years, Bishop's retain external investigators in all cases of sexual violence. During this period, Bishop's should explore whether to make external investigators permanent under the Policy and/or, if investigators are to be internal, to identify the capacity of, and train, other persons within the University (such as faculty with expertise in trauma-informed and culturally responsive practices, sexual assault law, and gender-based violence) to undertake investigations. Bishop's could also explore sharing resources for external (or internal) investigations by properly qualified investigators with Champlain College and Université de Sherbrooke.

In terms of offering survivors information about the process for reporting an experience of campus-related sexualized violence, the SARC's at the re-envisioned Centre should be trained to explain the options. Certainly, it would be appropriate for General Counsel to conduct regular training with the SARCs for this purpose.

That said, some survivors may wish to consult with someone outside of the University, including legal counsel. The Province of Québec recently adopted [\*An Act to create a court specialized in sexual violence and domestic violence, SQ 2021, c 32\*](#) (in November 2021). The legislation creates a program for access to legal advice for sexual assault survivors, offering up to four hours of legal services without any requirement for financial eligibility:

## DIVISION I “CONSULTATION SERVICE FOR PERSONS WHO ARE VICTIMS OF SEXUAL VIOLENCE OR DOMESTIC VIOLENCE

“83.0.1. The Commission shall ensure that a consultation service is available to persons who are victims of sexual violence or domestic violence, whether or not financially eligible for legal aid, so that they may receive, free of charge, a maximum of four hours of legal assistance on any issues of law in connection with the violence suffered.

In Ontario, a similar ILA program for survivors of sexual assault has been in place since 2016. The program offers residents of Ontario who have had an experience of sexual violence in Ontario, up to four hours of legal information and advice, paid for by the government. This program is frequently accessed by students of universities and colleges in Ontario, seeking information and advice on reporting options (within and outside of the university) and has successfully been used by ILA lawyers to provide information and advice in making a complaint to the PSI in question.

It appears that Bishop’s students are eligible for information and support under the Québec ILA program. If they are, this would be a good and free external resource for Bishop’s students. The IRP recommends that Bishop’s explore whether students can be successfully referred to this Independent Legal Advice (ILA) programme, and if so, that Bishop’s explore providing a brief training on Bishop’s policy and process to a number of the twelve lawyers who provide the services under the program. Information about the ILA program should also be provided to staff and students of Bishop’s as part of sexual violence education and training and on the Bishop’s website.

### **Recommendations:**

1. For a pilot period of three years, Bishop’s should retain external investigators in all cases of sexualized violence under the Policy. The external investigators must have expertise in trauma-informed and culturally responsive practices, sexual assault law, and gender-based violence. Other investigations may be conducted by an internal investigator who is trained in trauma-informed investigations, culturally responsive approaches, sexual assault law, and gender-based violence and who is not a member of Bishop’s security.



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2. During the pilot period, Bishop's should explore whether to make external investigators permanent under the Policy or should identify the capacity of, and train, other persons within the University (such as faculty with expertise in trauma-informed and culturally responsive practices, sexual assault law, and gender-based violence) to undertake investigations. Bishop's could also explore sharing resources for external (or internal) investigations by properly qualified investigators with Champlain College and Université de Sherbrooke.
3. Bishop's should confirm the scope of eligibility for Independent Legal Advice for survivors of sexual and domestic violence under the recently introduced Québec legislation and:
  - a. Bishop's should provide and promote Information about the ILA program to staff and students of Bishop's as part of sexual violence education and training. The ILA program should also be a referral on the Bishop's website.
  - b. Bishop's should explore providing a brief introduction or training on their sexual violence policy and process to the lawyers who provide services under the program.

## **H. FOCUS ON HOT SPOTS AND SPECIFIC AREAS OF CONCERN**

### **H. (1) ATHLETICS**

The Department of Athletics and Recreation at Bishop's is described as follows in the 2021-2022 Education and Prevention of Sexual Violence Action Plan:

The Department of Athletics and Recreation is responsible for 10 varsity teams, 350 student athletes, and intramural and recreational programming. The John H. Price Sports Centre facility includes two gyms, a hockey arena, dance studio, combative rooms, squash courts, a swimming pool, multiple weight rooms, a fitness centre, varsity team rooms, and other community spaces.

The facilities are shared with Champlain College and are regularly used by local schools and other groups. In a typical year there are over 130,000 entries into the complex with 55% being from the Bishop's community.

During the consultations, the IRP was informed of the important role of athletics at Bishop's. The IRP heard that athletic teams are a significant recruitment draw to the University and that the athletics program emphasizes leadership and excellence.

In consultations with the IRP, the administration emphasized that preventing and addressing toxic masculinity within male sports has been a priority at Bishop's and that much work has been done over the past five or more years toward culture change in this regard. The University (and the IRP) recognize that misogynist culture is endemic in our society, and not specific to Bishop's.

While certain initiation rituals (hazing), often associated with sports teams, seem to have diminished over the years at Bishop's, the IRP heard in a number of consultations, about rape culture and toxic culture concerns in athletics, and heard from two individual students specifically about ongoing practices of this kind that perpetuate a culture of misogyny. This included athletes being forced to run outside naked (streaking), attend the GAIT cross-dressed, having threats of human waste being dumped on them, and rituals or events involving extreme intoxication. The IRP heard from consultation participants that male players, particularly from certain sports teams, are put on a pedestal and are seen to be untouchable, including in respect of conduct that would fall into the category of sexualized misconduct (which, it must be remembered, is not limited to sexual assault but includes sexual harassment and sexualized jokes, among other forms of misconduct). More generally, throughout the consultations with persons who were not current coaches or members of the Bishop's administration, Athletics was identified as an area of concern in respect of the persistence of rape culture and toxic masculinity on campus.

The reality, of course, is that change takes time. The concerns and criticisms of the culture within Athletics expressed by some participants to the IRP can coexist with good faith steps and efforts aimed at improvement being undertaken by the administration and coaching staff over the past few years.

The greatest divergence in terms of different perspectives related to the resourcing of men's and women's teams. Consultation participants consistently expressed their perception that male sports teams receive a much greater degree of 'soft support' from the University (for example with respect to profiling and celebrating athletes, emphasis and degree of focus on particular male teams in university communications and disparate alumni fundraising that privileged male teams).



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The IRP heard how certain women's athletic teams have limited access to locker rooms, with the example of a women's team that didn't have sufficient hooks for each player (as compared to one men's team that has a large number of players, significant alumnus donations, and a lounge in addition to a locker room).

Similarly, the IRP heard that despite the comparative success of the women's varsity teams at Bishop's, the social media and promotional content of Bishop's communications is perceived to be unevenly focused on the activities of male sports teams.

On a brief review of the Bishop's Gaiters' Instagram, there appeared to be 8 promotional posts (e.g. advertising games) for women's athletic teams as opposed to 17 for men's athletic teams, in the period of approximately August 2021 to April 30, 2022. The men's football home opener received more promotion and posts as compared to the promotion of any women's team event. In terms of non-promotional posts (e.g. awards), the posts appeared to be more even (23 for women vs. 27 for men).

For participants in the IRP consultations, disparities between the treatment of women and men athletes (however unintentional) reinforce the gender hierarchy that contributes to cultures of sexualized violence.

Bishop's administration emphasized with the IRP its commitment to resourcing and investing in women's sports. This included: raising a 1 million dollars to support a U Sports women's hockey team and choosing not to add a men's hockey team to the U Sports roster; establishing a varsity Cheerleading team in February 2019 (which is co-ed but primarily composed of women); placing a priority on hiring women in staff and coaching positions (currently Cheerleading has a woman-head coach and women's soccer, basketball and hockey each have a woman-identified assistant or associate coach), holding a Women-In-Sports Symposium in the Fall of 2019 and inducting athletes into the *Wall of Distinction*; awarding a new award to celebrate accomplished Alumni to a woman alumnus athlete as the first recipient; and prioritizing and supporting athletes through financial assistance and awards. Significantly, of the 74 Athletic Financial Awards handed out in 2021-22, 51 were awarded to female-identified athletes. Currently Bishop's is actively seeking to hire a head-coach for the women's basketball team. In term of the disparity in size and quality of some of the locker rooms, Bishop's took recent steps (some since the IRP was first engaged) to address this issue, having benefited from a recent facility expansion and renovation.

The IRP notes that some of Bishop's commitments to diversity and inclusion are also requirements of U Sports. For example, U Sports requirements for new members include that "new members must declare at least two male and two female U sports one of which must be a team sport" (Article 10.10.2.4). Applicant institutions for U Sport membership must also comply with a requirement of "Demonstrated evidence of a commitment towards gender equity (e.g. budgets, coaching salaries, financial aid to student-athletes, current equity policy, etc.)" (10.10.2.7).<sup>11</sup>

Acknowledging Bishop's stated commitments to gender equity in sport, what remains crucial is addressing the gap between perceptions, views and/or reality of student athletes and others in the student body and the actions of the administration.

To this end, the IRP recommends that Bishop's undertake a gender audit of sport, which audit may be undertaken by an external consultant or, if undertaken internally, by a faculty member with requisite expertise and with input from student athletes. The IRP also recommends that Bishop's develop guidelines for promoting gender equity in social media communications, which guidelines should be developed in consultation with student athletes and the staff dedicated to marketing in the athletics department.

In terms of education and training, the IRP heard about the efforts and commitments within the Department of Athletics to train athletes with respect to sexualized violence, including bystander training. At the same time, there was a perception among the broader student body that, because athletes' schedules make it difficult to coordinate their regular training with sexual violence training offered to other students, the athletes get a 'pass' or are given a siloed and/or inadequate training. This latter issue related to training was identified by the Ad Hoc Committee on PSV and (as discussed in the next paragraph below), whose Action Plan commits to "ensuring the required completion of Bystander Training."

Another issue raised is that Athletics' efforts appear to operate independently of, and in isolation from, other efforts with respect to sexual violence education, training, and prevention at Bishop's. It is noted that the Action Plan submitted by Athletics to the Ad Hoc Committee on PSV makes a reference to coordinating with "Student Affairs" on the mandatory Bystander Training run by student affairs but makes no reference to the in-house expertise in sexual violence at the Centre. Athletics appears to have created its own *Prevention of Sexual Violence Document*, separate from (as opposed to in coordination with) the Bishop's staff with expertise in sexualized violence. With the addition of a second SARC

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<sup>11</sup> See U Sports Policy 10 – Membership [https://usports.ca/uploads/hq/By\\_Laws-Policies-Procedures/2019/EN/Policy\\_10\\_Membership\\_%282019-2020%29.pdf](https://usports.ca/uploads/hq/By_Laws-Policies-Procedures/2019/EN/Policy_10_Membership_%282019-2020%29.pdf)



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at Bishop's, the SVSC's role in developing an action plan that establishes specific measures for the education and training of athletes should be central. Similarly, sexual violence policy documents for athletes should be developed collaboratively with the Centre. Sexual violence prevention and education of athletes should be coordinated through the Centre and not siloed or separated from it. This education and training must also be mandatory and not optional.

Finally, there was significant discussion in the consultations about the problems of the "Sportsplex" and access to the Sportsplex by persons who identify as women. The Sportsplex was described as a male-dominated environment and the need for some "women-only" times was raised repeatedly.

In the IRP's early consultations, the IRP was advised that 'women (or woman-identified)-only' times at the gym were impossible or impractical, given the resource demands at the complex, which serves not only the athletic teams and all of the Bishop's community but also Champlain College and Lennoxville more generally. Later in the IRP's consultations we heard that "Women and Gender Non-Conforming Only Hours" in the fitness room had in fact been instituted in the Winter 2022 term, in response to the communications from the community requesting this change. The IRP supports the designation of some women/gender non-conforming-only times at the gym, at least for a trial period of 2 years. A commitment to women-only gym access not only improves access for certain individuals, but also signals a commitment to a culture shift. It further recognizes the importance of proactive measures to deepen accessibility for those who identify as women or as gender-nonconforming persons in traditionally male-dominated spaces.

### **Recommendations:**

1. Bishop's should undertake a gender (SGBA+) audit of sport, including of resourcing and marketing/social media communications, which audit may be undertaken by an external consultant or, if undertaken internally, by a faculty member with requisite expertise and meaningful input from student athletes through the process.
2. Bishop's should develop guidelines for promoting gender equity in social media communications in Athletics, which guidelines should be developed in consultation with student athletes and staff dedicated to marketing in the athletics department.

3. Sexual violence policy development, education, training of athletes should be conducted in collaboration with or through the SVSC, and not independent of it.
4. Student athletes should participate in the general training provided to all Bishop's students but should also be required to participate in athletic and team-specific training and education. Bystander and peer-leadership training in this regard is most effectively undertaken at the team-level.
5. Bishop's should institute and maintain meaningful weekly women/gender-nonconforming persons-only access periods to the gym at suitable times (e.g. not before 7 am or after 9 pm).

#### **H. (2) HOT SPOTS – SEXUAL VIOLENCE AND THE GAIT**

During the consultations, the IRP routinely asked participants where they perceived incidents of sexual violence involving students occurring at Bishop's to be most likely to occur. Locations identified included off-campus apartments, houses known for 'partying', as well as in residence. Another location repeatedly discussed was the Gait, an on-campus pub that is operated by the Students Representative Council.

The IRP was advised that, particularly in the past year or two years, the Students Representative Council and the Sexual Cultural Committee invested significant effort and collaborated to improve existing policies relating to the GAIT and/or create new ones. The SRC and SCC have tried to increase drink security at the GAIT and are developing a Safer Spaces Policy and a Sexual Misconduct Policy specific to the SRC.

The concerns about the Gait raised by participants included:

- Security staff are under-resourced and poorly trained or equipped to handle issues of sexual violence
- Lack of enforcement
- Where a respondent student has been identified by Bishop's as a risk, there is no mechanism or effective mechanism for notifying the SRC/GAIT due to privacy concerns and thus no enforcement or protection at the GAIT. Bishop's security may have a confidential list of banned respondents, but the list is very difficult to enforce.



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Many student participants told the IRP that they would like to see respondents banned from the GAIT more frequently. A phrase we heard a number of times was that entering the GAIT is a “privilege not a right.”

The IRP also heard that a solution to the lack of enforcement of bans on students when bans are imposed, is ID scanners. Students must show ID in order to enter the GAIT in any event, and the scanner would simply flag those who are not permitted to enter.

There was some confusion in the consultations as to whether Bishop’s has jurisdiction to impose an order prohibiting a student from attending the GAIT. Some participants thought the GAIT was subject only to the SRC’s control. The perception that Bishop’s does not have jurisdiction to take action when an incident occurs at the GAIT may contribute to underreporting of such incidences. Sexual violence education and training on the jurisdiction of the Policy should expressly inform students that the Policy applies to incidents that occur at the GAIT. Bystander training should similarly emphasize that acts of sexualized violence witnessed at the GAIT can be disclosed or reported by witnesses (third parties/bystanders) and acted upon by Bishop’s, without necessarily requiring evidence from the survivor.

Given the extent to which we heard that the GAIT is a ‘hot spot’ for issues related to sexualized violence, or behaviour (including intoxication) that can lead to sexualized violence, a more formalized and coordinated policy and approach between the SRC and Bishop’s with respect to misconduct at the GAIT would be beneficial.

In addition, education and training of students on Bishop’s jurisdiction to respond to sexual violence at the GAIT is also clearly required.

In terms of the feedback that bans should be used more frequently, the IRP recommends an approach that balances the importance of the GAIT as one of a number of central points of social contact on campus with prioritizing safety at the GAIT. In the IRP’s view, the revised approach to Immediate Measures recommended by the IRP in this report would permit Bishop’s the flexibility to impose bans on entry to the GAIT while upholding the respondent’s right to procedural fairness.

**Recommendations:**

1. For a 2-year period, Bishop’s should contribute additional resources to the SRC for training of GAIT staff and security, along with a process for evaluating whether this

resourcing assists in addressing concerns about lack of enforcement of sexual violence prevention and more generally about sexual violence prevention and responses at the GAIT.

2. The SRC and Bishop's should develop a joint policy and protocol, to be implemented by the Winter session of 2023, for responding to sexual violence at the GAIT, including developing criteria for the imposition of temporary bans (weeks/months) or longer bans (e.g. for the period of a term or a year).
3. Bishop's should support ID Scanners at the GAIT to enforce security measures.
4. Education and training on the Policy, including Bystander training, should make clear that conduct at the GAIT (and other off-campus conduct) is covered by the Policy.

#### **H. (3) ENHANCED SUPPORT FOR RESIDENCE LIFE STAFF DURING HIGH-RISK PERIODS**

Another site and time period for elevated risk of sexualized violence on campus is residence during the first six to eight weeks of the academic year and during major events like Halloween, Winterfest and St. Patrick's Day.

Bishop's efforts to engage in training and education to address the risks during the first weeks of school are described in the Bishop's 2021-2022 Action Plan and are discussed briefly in the section on training below.

The IRP spoke with former and current students who held leadership positions in the residences, as well as a representation of more senior and newly hired student residence life staff.

The IRP is concerned that residence life staff who are students are not adequately trained or equipped to deal with disclosures of sexual violence. Although they are provided some training by Bishop's, this training cannot fill their knowledge and experience gaps. Students advised us that they are told or have been told, variously, to tell survivors in residence to "call security", "go to the police or go to the hospital." More recently they refer survivors to the SARC, the Dean of Student Affairs or the Manager of Counselling, Careers and Accessibility Services. Yet none of these individuals are (or should necessarily always be) available after hours. There are on-call full-time Residence Life Co-ordinator staff, but they too may not have specific expertise in responding to disclosures of sexualized violence.



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The IRP recognizes that it is important not to burn-out or unduly burden the SARC staff dedicated to addressing sexualized violence. On the other hand, particularly during approximately the first six weeks of the academic year, there is a high need for specialized support after hours. Accordingly, the IRP recommends that Bishop's explore expanding the SARC services after hours during the red-zone periods (of September/October of the school year).

**Recommendations:**

1. Bishop's should explore with the SARC staff how to make the SARCs available after- hours to support residence life student leaders when situations involving sexualized violence arise and/or disclosures are made in the first approximately 6-8 weeks of the academic year.

**I. BUILD AN INTERSECTIONAL APPROACH INTO THE STRUCTURE**

An important component of combatting and responding to sexualized violence on campus and ensuring that those who experience sexual violence feel safe to report, is paying careful attention to the barriers to access for the most marginalized students. Attention should also be given to systemic oppressions that may be faced by respondent students from marginalized groups.

The University's Policy on the Prevention of Harassment includes detailed provisions on the mandate and composition of a "Prevention of Harassment Committee" (the "Prevention Committee"). The Sexual Violence Policy incorporates the Prevention Committee into the Sexual Violence Policy and mandates the Prevention Committee with review of the Policy. That said, the Committee's mandated duties under the Sexual Violence Policy are more limited than under the Harassment Policy.

Since the Harassment Policy was adopted, a number of new key staff positions were introduced to Bishop's, including an Equity, Diversity and Inclusion Specialist and a Special Advisor for Indigenous Student Support.

These positions and perspectives should be embedded into the structure which reviews and contributes to education, training, policy and evaluation around sexualized violence and harassment at Bishop's.

Formally embedding these positions into review and decision-making structures at Bishop's is particularly critical since, as discussed in the section above on Athletics, sometimes departments (such as Athletics) appear to be working separately from the Centre (or possibly other areas of the University) on issues related to sexualized violence. Even at small universities, there is always the possibility that departments or services on campus can be siloed institutionally.

In order to avoid inadvertent siloing and to ensure the integration of an intersectional lens in discussions of prevention, education, training, responses, and evaluation of sexual violence initiatives, policies and practices, the IRP recommends that a focus on EDI and the unique social/cultural/political realities and needs of students and staff from underrepresented groups be embedded into the decision-making structures.

The IRP recommends that the EDI specialist and the Indigenous Student Support Advisor be added as members of the Prevention Committee and that the mandate of the Committee expressly include collecting information and reporting on Equity Diversity and Inclusions issues as they relate to sexualized violence and discrimination on campus. The annual report of the Committee should also address these issues.

The IRP was also informed that a new committee is in the process of being created, the "Prevention Programming Committee" with the expectation that senior administrators (such as the Dean of Student Affairs) will sit on the Committee along with the SARC, the Manager of Counselling, the Indigenous Student Support Advisor, the EDI Specialist, student representation (particularly from groups representing excluded students, such as BU Pride and Spectrum), and representatives from Student Life and Human Resources. The IRP supports the creation of this Committee and its role in ensuring that education and training programming is specific to the circumstances and evolving needs of students and staff at Bishop's.

#### **Recommendations:**

1. The IRP recommends that the EDI specialist and the Indigenous Student Support Advisor be added as members of the Prevention Committee and that the mandate of the Committee expressly include collecting information and reporting on Equity Diversity and Inclusions issues as they relate to sexualized violence and discrimination on campus. The annual report of the Committee should also address these issues.



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2. The IRP recommends that for the next two years, the Prevention Committee should hold meetings in each of the fall and winter terms, attended by the Principal, which meetings will include discussion of the intersectional issues related to the University's work on sexual violence prevention and response.

## **J. IMPROVING DIVERSITY IN STUDENT SERVICES RELATED TO SEXUALIZED VIOLENCE**

For a university of its size, Bishop's appears to have a relatively well-resourced counselling department.

Nevertheless, and not surprisingly given the realities across North American campuses related to student wellness, demand exceeds availability. Students reported to the IRP that access to counselling can sometimes be difficult if a student does not report being in significant crisis. Students also reported that not all counsellors were expert in sexualized violence, that it can be very difficult to change counsellors if the 'fit' isn't good, and that a barrier to accessing counselling is the lack of diversity in the counselling staff.

The IRP acknowledges that Bishop's is making efforts to diversify counselling services. This is a positive step. The IRP also realizes that recruitment of full-time staff to the small community at Bishop's can be challenging.

In the EAG meeting in May 2022, the IRP advised Bishop's about the reported lack of access to specialized and/or diverse counselling and learned, for the first time, that in addition to the on-campus in-person supports through Health and Wellness, there is a system already in place for students to access virtual counselling, through the "Student Care" insurance program. The program offers access to virtual psychologists, social workers, sex therapists and others. The IRP was further advised that that service is multilingual and students can request professionals with expertise in Indigenous support, LGBTQIA2S+ or other identities. Unlike many similar insurance programs, the program purchased by the SRC at Bishop's is free and does not require students to pay out of pocket. Information about the Bishop's Student Care Empower Me insurance program can be found here:

[https://studentcare.ca/RTEContent/Document/EN/FAQ/Empower\\_Me\\_Optima\\_FAQ.pdf](https://studentcare.ca/RTEContent/Document/EN/FAQ/Empower_Me_Optima_FAQ.pdf)

None of the students that the IRP met with indicated an awareness of this program. Promoting the program would be of obvious benefit for the Bishop's community.

## **Recommendations:**

1. The IRP recommends that sexual violence training, education and print and on-line materials provide information about the Student Care Empower Me program, and the availability of diverse counsellors.
2. The IRP recommends that Bishop's closely monitor the uptake of this insurance program for counselling over the next three years, as well as consulting with the Prevention Committee (as well as direct consultations with the EDI and Indigenous Student Support Advisor and representative student groups), to assess whether the complement of Bishop's counselling department and the insurance program are meeting students' needs or whether a pilot program for Bishop's funded external and virtual counselling should be considered.

## **K. AMEND THE SEXUAL VIOLENCE POLICY TO INCLUDE SUPPORTS FOR RESPONDENT STUDENTS**

The procedure under a sexual violence policy can be as mystifying to respondents as survivors.

Respondent students<sup>12</sup> involved in a sexual violence complaint (or a request for Immediate Measures) need to understand the process, be prepared for next steps, and have someone knowledgeable about the Policy available to whom they can direct questions. Ensuring that the respondent student is supported, including in understanding their confidentiality obligations, can also mitigate risk of retaliation or other inappropriate conduct by the respondent student in response to the complaint.

Support for the respondent should also be trauma-informed and culturally responsive. From a trauma-informed perspective, for example, neither a survivor nor respondent student should receive the results of an investigation by email without prior notice of warning. A better approach would be for the support person to meet with the respondent student in-person (or at least by Zoom). Similarly, for respondent students, initial information about the fact that a complaint has been made, or that Immediate Measures are being considered, is better delivered through or with the support of the designated staff person, rather than by email without prior (and more personal) contact.

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<sup>12</sup>This section of the report will not focus on respondent staff, who are very frequently unionized and thus supported through their union or faculty association.



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At some institutions, the Sexual Violence Support Centre will provide support and other services to the Survivor, and a designated staff support person, entirely outside of and separate from the Centre, will provide information and support to the respondent. It is not uncommon for that support person to be a staff member from Residence Life or Student Conduct.

The IRP discussed with Bishop's consultees where within the University the support person or persons for respondents should be situated. There was no consensus, and the IRP concluded that while it recommends that the Policy require the provision of a support person for respondent students, who that is and where within the institution they should be located (i.e. within which department) are questions best determined by Bishop's following further internal discussions.

**Recommendations:**

1. Bishop's Policy should be revised to include a support person for respondent students who are faced with a formal complaint or Immediate Measures. For greater clarity, the support person for respondents will be independent and separate from the Centre.

**L. AMEND THE SEXUAL VIOLENCE POLICY TO CLEARLY PROHIBIT FACULTY-STUDENT RELATIONS**

Bishop's current Sexual Violence Policy does not explicitly prohibit sexual relationships between students/faculty, including where the faculty member currently teaches the student,. Instead, these relationships are "strongly discouraged" and where they exist, the staff person has a duty to disclose the relationship, following which they will be required to "give up any supervisory or evaluative authority over the other person in the relationship." Sexual relationships between coaches and athletes are prohibited by the Coaches' Code of Conduct, but this prohibition should also be made clear in the Sexual Violence Policy.

The IRP heard concern about, and a lack of support for, this policy approach to faculty-student relations. Bishop's is a small school, the students are relatively young and live on or near campus, and the close-knit relationships on campus mean that imbalances can have reverberating (and toxic) effects. Therefore, at a minimum, sexual relationships should be

clearly prohibited between any teaching staff member and a student where 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 the student
- iii. Has or may have an influence over the student's academic progress or
- iv. Collaborates academically with the student.

By adopting a more rigorous policy in this regard, Bishop's would be consistent with an emerging trend across Canada. 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>13</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. Other universities, like Concordia, carefully regulate such relationships to protect students and avoid conflicts 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 often fail to set sufficiently clear standards. A clear standard in the sexual violence policy signals to students that if they are subjected to unwanted attention, they need not doubt themselves nor prove to the University that the conduct was not consensual. Students would also have a strong policy basis on which to resist the attention and/or report.

### **Recommendations:**

1. Bishop's should strengthen its Sexual Violence Policy regarding "Intimate Relationships" as a matter of emerging best practice. A strict and clear policy can achieve fulsome protection of students without unduly encroaching on the rights of members of the University community. Such an approach would leave only limited space for non-exploitative relationships that must be disclosed and managed as real or potential conflicts of interest.

A sample policy approach is attached at Schedule D.

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<sup>13</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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## **M. AGGREGATE REPORTING AND REPORT ON IMPLEMENTATION OF THIS REPORT**

The IRP heard repeatedly that the veil of secrecy over previous disclosures and reports/complaints, fosters distrust in the institution. At the same time, Quebec privacy law is stringent, and Bishop's is under a legal obligation to ensure that no personal identifying information about individual disclosures or reports/complaints is revealed. Protecting privacy and confidentiality of sensitive information is particularly important in a small community like Bishop's.

Nonetheless, it is important that the Bishop's community be aware of the current low rates of disclosure and reporting (currently approximately 15-20 disclosures a year and 6 complaints over the last 3 years), as well as get a general sense of the resolution of these complaints if this can be done in a non-identifying way (e.g. by banding complaints over a larger number of years).

An example of a policy that requires very detailed annual reporting that is made public to the university community is that of the University of Manitoba (excerpt attached as Schedule E). It may not be possible for Bishop's to achieve the level of detail required by the Manitoba Policy, but the precedent reflects a trend towards greater transparency. Bishop's data and annual report should not just be posted on-line, but presented by the "steward" of the Policy to Senate and the Board, who should be in a senior leadership position (such as in the Secretary General or VP Academic roles).

### **Recommendations:**

1. Bishop's should publicly report aggregate and de-identified statistics on rates of disclosures, reports, and complaints, as well as, where possible, the general nature of the issues (e.g. peer on peer sexualized violence) and the outcomes of formal complaints.
2. Bishop's should ensure that this data is presented to the University Board and Senate by a senior leader within the administration.
3. Bishop's should report to the University community in October 2022 and March 2023 on the implementation of the recommendations made in this IRP Report.

4. Bishop's should report to the University community on how it will apply s.99 of [Bill 64](#), [*Loi modernisant des dispositions législatives en matière de protection des renseignements personnels*, LQ 2021, c 25] within its policy, which will require universities to share the results of disciplinary processes with a survivor who files a formal report.

#### **N. DEVELOP AND IMPLEMENT TRAINING THAT IS EVOLVING AND DEVELOPED FOR THE SPECIFIC AUDIENCE**

The IRP's mandate was focused on policy, procedures and practice in response to sexualized violence.

Parallel with the IRP's work, the Ad Hoc Committee developed an Action Plan for the Education and Prevention of Sexual Violence, with a significant focus on education, prevention, and training. The initiatives set out in the Action Plan are not summarized here, but can be found in the Action Plan. In general, however, Bishop's has implemented mandatory training programs for students, including a Consent and Bystander training program during orientation week and a mandatory on-line program that must be completed by a certain date in the fall, or students are locked out of access to their on-line student accounts. Completing the orientation week training is a precondition for access to one of the key social orientation week events.

In terms of training of staff and faculty, [Bill 151, An Act to prevent and fight sexual violence in higher education institutions](#), requires annual mandatory training on sexual violence of all "officers, personnel members, representatives of their respective associations and unions, and student association representatives." Annual training is beneficial, so that training of staff and faculty is not approached as "one and done" but is ongoing, during which the sexual violence policy and process, including any updates, are refreshed and reviewed. Particular areas for training of staff and faculty in upcoming years at Bishop's should include training on how to receive a disclosure of sexual violence and on the neurobiology of trauma and how survivors respond to experiences of sexualized violence.

The IRP heard some critiques of the training programs to date (it is noted that some of the programs were not developed for or by Bishop's). The concerns included that the programs did not adequately or respectfully convey the experiences of marginalized groups. Another concern was that the on-line training was not taken sufficiently seriously by students. The



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IRP received feedback about the importance of bystander training being delivered in-person and including role-play or other active learning, facilitated by persons who are properly trained (and not volunteer students who are not trained or in some cases are inappropriate for the role).

Responses to some of the critiques heard by the IRP appear to be integrated into the Ad Hoc Committee's SV Action Plan adopted by the Board, such as the commitment to "develop an updated training format, including new videos, more diverse depictions" and to address toxic masculinity by collaborating "with the SCC to find best practices in training and support."

In terms of training of male students, Bishop's should consider investing in properly resourced peer-led programs that engage a social norms approach:

Positive sexual violence prevention messages aimed at men should build on men's values and predisposition to act in a positive manner. Studies have shown that men are more receptive to positive messages outlining what can be done, instead of negative messages that promote fear blame or shame.

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Effective sexual violence public education campaigns can use male peer pressure to change social norms and correct misperceptions of group norms.

See Dr. L. Haskell, [Key Best Practices for Effective Sexual Violence Public Education Campaigns](#) (2011),

The IRP felt it had a responsibility to describe some of what we heard about training and education, but will make no recommendations about specific training programs. The training and prevention that Bishop's engages in, however, should include a commitment to eliciting feedback from those trained and be evaluated for effectiveness.

### **Recommendations:**

1. The education and training programs delivered by Bishop's should be evaluated annually or every other year for effectiveness and responsiveness to the diversity and needs of the student body.

## **O. SUMMARY OF POLICY REVISIONS**

This report has set out multiple areas of the Policy which need to be revised, including relating to: the central and streamlined role of the SARC and the Centre, clarifying Bishop's jurisdiction under the Policy, revising the role of the Dean of Student Affairs and General Legal Counsel, identifying external and eventually internal trained investigators who are independent of any and all decision-making under the Policy, and strengthening the Immediate Measures provisions, including developing a more robust and procedurally fair procedure for this purpose.

There are other areas of the Policy that could also benefit from further consideration that the IRP has not focused on or discussed in this report. For example, because the IRP did not hear anything in the consultations about "informal resolution" of sexualized violence complaints involving "an agreement between the parties," we did not comment on this in this report. Informal resolution of sexualized violence complaints by agreements between a survivor and respondent, however, must be approached at a minimum with great caution. Another area that the IRP wishes to flag, is that there is no mention of a review process under the Policy, either for student respondent student or complainants (the IRP's concern relates to students, since unionized faculty and staff will have a grievance process available under their respective collective agreements). The Policy states that the decision on breach is final, and the Policy is silent on how a respondent (or complainant) can ask that the decision on discipline or remedial measures be reviewed. There are procedural fairness concerns under a Policy that imposes discipline on a student without any possibility of review or reconsideration. Many PSI policies across Canada rely on egregious error review, where decisions are reviewed largely on paper, and on the basis of narrow grounds, such as breach of procedural fairness or egregious error on the facts or sanction. The IRP does not think that it is a good practice for PSI sexual violence policies to include an "appeal" that involves a re-hearing of the facts, but is concerned that there is no narrow review at all under the Policy, even (apparently) in cases where a respondent student is suspended or expelled.

### **Conclusion**

The IRP thanks Bishop's for involving CCLISAR in the important work of improving campus sexual violence policies, practices and responses, and honours and thanks the Bishop's community for its engagement.

Due to the Covid-19 pandemic, all of the IRP's consultation sessions were hosted on Zoom.



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The IRP regrets not having had the opportunity to meet the Bishop's community members in-person at Bishop's, all of whom generously shared their thoughts, time and insights with the IRP.

Addressing sexual violence in university communities is a difficult and long-term challenge. We hope that the recommendations made in this report are helpful not only to Bishop's but to our collective learning and progress.

Joanna Birenbaum  
(IRP Chair)

Angela Campbell

Carissima Mathen

## LIST OF RECOMMENDATIONS

### A. ADDRESS PERVASIVE CONFUSION ABOUT “DISCLOSING” and “REPORTING” SEXUAL VIOLENCE

1. Bishop’s Policy for the Prevention of Sexual Violence should be amended to minimize the number of terms for reporting from three to two (i.e. limit it to “disclosure” and “report”) and streamline the process so that all disclosures for accommodations and supports and all reports to trigger an immediate measure or investigation are processed through the Sexual Violence Response Centre (whether directly or following an on-line report through the REES platform).
2. The Sexual Violence Policy should provide a step-by-step guide setting out the disclosure and reporting processes, the criteria on which decisions are made, and who the decision-maker/s is/are. Accessible flowcharts and plain-language materials explaining the process (such as those developed by the Sexual Cultural Committee) should be further resourced and developed.
3. Staff and faculty should be trained on how to receive a disclosure of sexualized violence, including training on:
  - a. How the Policy works, including the obligation on faculty/staff to refer the survivor to the Centre, and ensuring faculty/staff have an in-depth knowledge of the difference between a “disclosure” and “report”, and the options for survivors (e.g. accommodations, immediate measures, investigation) and how to access them.
  - b. Receiving a disclosure in a manner that is trauma-informed and culturally responsive, including by avoiding questions or responses that are premised on discriminatory social assumptions, rape mythology, and harmful attitudes about women or sexualized violence.
4. Student training, including bystander training, should ensure that students understand:
  - a. The difference between a “disclosure” (for accommodations and support) and a “report” (to trigger an immediate measure, remediation or a disciplinary consequence on the respondent)



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- b. Where to disclose and report (the Centre/REES).

### **B. CREATE A SEXUAL VIOLENCE SUPPORT CENTRE AND STREAMLINE REPORTING OPTIONS**

5. The Sexual Violence Support Centre should be envisioned and developed with a view to the Centre having a distinct presence at Bishop's.
6. The Centre should be located in a stand-alone location or, at a minimum, separate from Health and Wellness/Counselling. For a two-year pilot period, the Centre should be located in the BU Centre, with the goal of eventually housing the Centre in one of the houses owned by Bishop's on Mackinnon or Harrold streets (subject to consultations with the Bishop's community in recommendation #3 below).
7. During the two-year pilot period, Bishop's should engage in consultations with the Prevention Committee (as revised under recommendation 35 and 36) and the student community with respect to the permanent location for the Centre.
8. The Centre should be staffed by two or more persons, whose roles include education, training and prevention as well as support and advocacy. Clinical counselling should be referred to the Health and Wellness Centre and should not be part of the role of the SARC.
9. Students may be supported by other persons when disclosing or reporting, such as the Special Advisor, Indigenous Student Support, the Chaplain or others. For international students, Indigenous students, and others, the SARC should be available to meet in safe spaces, such as the Special Advisor's office, rather than the Centre.

### **C. CLARIFY AND STRENGTHEN THE JURISDICTION OF BISHOP'S TO RESPOND TO OFF-CAMPUS (INCLUDING ON-LINE) CONDUCT**

10. Bishop's should amend its Sexual Violence Policy to clarify that the Policy applies to off-campus conduct and that the University will investigate all reports involving off-campus conduct where there is a real and substantive connection to the University and the learning, working and living environment at the University.

11. Bishop's should ensure that its plain-language materials about the reporting process under the Policy, explain the scope of the Policy and provide a few common examples of conduct that is and isn't captured by the Policy.
12. Bishop's should develop a publicly available protocol with Champlain College for a joint response and investigation process where incidents of sexual violence involve student complainants or respondents from both of the respective institutions.

#### **D. IMPROVE AND STRENGTHEN THE USE OF IMMEDIATE MEASURES**

13. Bishop's should exercise and build on the Policy's authority to impose measures on a respondent following a disclosure. The Sexual Violence Policy should be amended to include a detailed procedure for imposing Immediate Measures that would respond to the needs of complaints but also ensure a fair process for the respondent. Model Immediate Measures policy provisions with suggested procedural steps are attached as Schedule C and are adapted from CCLISAR's model policy.<sup>14</sup>
14. When a disclosure or report is made, the complainant should 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.
16. The complainant should be given an opportunity to share their health, safety, and living/education needs and concerns with the SARC and/or make submissions to the Dean of Student Affairs who will determine any immediate measures. The respondent will similarly be provided with the opportunity to make submissions on the imposition of Immediate Measures, either before the Immediate Measures are imposed, or as part of a request for the review of the decision to impose Immediate Measures.

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<sup>14</sup> The CCLISAR Model Policy was developed for the CCLISAR Review of the policies and procedures at [StFX University](#) and the section of the policy on Immediate Measures was recommended in the CCLISAR Review of the Mount Allison University policies and procedures.



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17. The Student Code of Conduct should not be “pivotal” as a guide to Immediate Measures or any other process in the Sexual Violence Policy. The Sexual Violence Policy should be a complete code and stand-alone document for students.<sup>15</sup>

**E. AVOID SILENCING SURVIVORS THROUGH NDAs AND MUTUAL NO-CONTACT ORDERS**

18. No-contact orders following a disclosure or report of sexual violence should not automatically be mutual or bi-directional. Mutual no-contact orders should be the exception and not the rule.

19. Bishop’s should amend the Sexual Violence Policy to set out the expectations of confidentiality for participants (complainants, respondents and witnesses) in ongoing investigations, emphasizing the need to maintain the integrity of the investigation. The confidentiality expectations should, however, permit complainants and respondents to use discretion to share information with therapists, family members, and trusted persons for the purposes of support. The confidentiality obligations should not prevent participants from discussing their own life experiences after the conclusion of the investigation, nor should they permanently restrict students from discussing the outcome of the investigation.

20. Participants in sexual violence investigations should not be required to sign an “NDA” form.

**F. RESTRUCTURE THE ROLES AND RESPONSIBILITIES OF THE DEAN OF STUDENT AFFAIRS AND GENERAL LEGAL COUNSEL UNDER THE SEXUAL VIOLENCE POLICY**

21. The role of the Dean of Student Affairs under the Policy should be narrowed. The Dean of Student Affairs should not be the site for gathering first-hand disclosures or reports of sexual violence.

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<sup>15</sup> Collective agreements will always be a separate binding document for faculty and unionized staff.

## **G. ROLE OF LEGAL COUNSEL FOR BISHOP'S UNIVERSITY**

22. For a pilot period of three years, Bishop's should retain external investigators in all cases of sexualized violence under the Policy. The external investigators must have expertise in trauma-informed and culturally responsive practices, sexual assault law, and gender-based violence. Other investigations may be conducted by an internal investigator who is trained in trauma-informed investigations, culturally responsive approaches, sexual assault law, and gender-based violence and who is not a member of Bishop's security.
23. During the pilot period, Bishop's should explore whether to make external investigators permanent under the Policy or should identify the capacity of, and train, other persons within the University (such as faculty with expertise in trauma-informed and culturally responsive practices, sexual assault law, and gender-based violence) to undertake investigations. Bishop's could also explore sharing resources for external (or internal) investigations by properly qualified investigators with Champlain College and Université de Sherbrooke.
24. Bishop's should confirm the scope of eligibility for Independent Legal Advice for survivors of sexual and domestic violence under the recently introduced Québec legislation and:
  - a. Bishop's should provide and promote Information about the ILA program to staff and students of Bishop's as part of sexual violence education and training. The ILA program should also be a referral on the Bishop's website.
  - b. Bishop's should explore providing a brief introduction or training on their sexual violence policy and process to the lawyers who provide services under the program.

## **H. FOCUS ON HOT SPOTS AND SPECIFIC AREAS OF CONCERN**

### **ATHLETICS**

25. Bishop's should undertake a gender (SGBA+) audit of sport, including of resourcing and marketing/social media communications, which audit may be undertaken by an external consultant or, if undertaken internally, by a faculty



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member with requisite expertise and meaningful input from student athletes through the process.

26. Bishop's should develop guidelines for promoting gender equity in social media communications in Athletics, which guidelines should be developed in consultation with student athletes and staff dedicated to marketing in the athletics department.
27. Sexual violence policy development, education, training of athletes should be conducted in collaboration with or through the SVSC, and not independent of it.
28. Student athletes should participate in the general training provided to all Bishop's students but should also be required to participate in athletic and team-specific training and education. Bystander and peer-leadership training in this regard is most effectively undertaken at the team-level.
29. Bishop's should institute and maintain meaningful weekly women/gender-nonconforming persons-only access periods to the gym at suitable times (e.g. not before 7 am or after 9 pm).

### **SEXUAL VIOLENCE AND THE GAIT**

30. For a 2-year period, Bishop's should contribute additional resources to the SRC for training of GAIT staff and security, along with a process for evaluating whether this resourcing assists in addressing concerns about lack of enforcement of sexual violence prevention and more generally about sexual violence prevention and responses at the GAIT.
31. The SRC and Bishop's should develop a joint policy and protocol, to be implemented by the Winter session of 2023, for responding to sexual violence at the GAIT, including developing criteria for the imposition of temporary bans (weeks/months) or longer bans (e.g. for the period of a term or a year).
32. Bishop's should support ID Scanners at the GAIT to enforce security measures.
33. Education and training on the Policy, including Bystander training, should make clear that conduct at the GAIT (and other off-campus conduct) is covered by the Policy.

## **ENHANCED SUPPORT FOR RESIDENCE LIFE STAFF DURING HIGH-RISK PERIODS**

34. Bishop's should explore with the SARC staff how to make the SARCs available after- hours to support residence life student leaders when situations involving sexualized violence arise and/or disclosures are made in the first approximately 6-8 weeks of the academic year.

### **I. BUILD AN INTERSECTIONAL APPROACH INTO THE STRUCTURE**

35. The IRP recommends that the EDI specialist and the Indigenous Student Support Advisor be added as members of the Prevention Committee and that the mandate of the Committee expressly include collecting information and reporting on Equity Diversity and Inclusions issues as they relate to sexualized violence and discrimination on campus. The annual report of the Committee should also address these issues.
36. The IRP recommends that for the next two years, the Prevention Committee should hold meetings in each of the fall and winter terms, attended by the Principal, which meetings will include discussion of the intersectional issues related to the University's work on sexual violence prevention and response.

### **J. IMPROVING DIVERSITY IN STUDENT SERVICES RELATED TO SEXUALIZED VIOLENCE**

37. The IRP recommends that sexual violence training, education and print and on-line materials provide information about the Student Care Empower Me program, and the availability of diverse counsellors.
38. The IRP recommends that Bishop's closely monitor the uptake of this insurance program for counselling over the next three years, as well as consulting with the Prevention Committee (as well as direct consultations with the EDI and Indigenous Student Support Advisor and representative student groups), to assess whether the complement of Bishop's counselling department and the insurance program are meeting students' needs or whether a pilot program for Bishop's funded external and virtual counselling should be considered.



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**K. AMEND THE SEXUAL VIOLENCE POLICY TO INCLUDE SUPPORTS FOR RESPONDENT STUDENTS**

39. Bishop's Policy should be revised to include a support person for respondent students who are faced with a formal complaint or Immediate Measures. For greater clarity, the support person for respondents will be independent and separate from the Centre.

**L. AMEND THE SEXUAL VIOLENCE POLICY TO CLEARLY PROHIBIT FACULTY-STUDENT RELATIONS**

40. Bishop's should strengthen its Sexual Violence Policy regarding "Intimate Relationships" as a matter of emerging best practice. A strict and clear policy can achieve fulsome protection of students without unduly encroaching on the rights of members of the University community. Such an approach would leave only limited space for non-exploitative relationships that must be disclosed and managed as real or potential conflicts of interest. A sample policy approach is attached at Schedule D to the IRP's Report.

**M. AGGREGATE REPORTING AND REPORT ON IMPLEMENTATION OF THIS REPORT**

41. Bishop's should publicly report aggregate and de-identified statistics on rates of disclosures, reports, and complaints, as well as, where possible, the general nature of the issues (e.g. peer on peer sexualized violence) and the outcomes of formal complaints.
42. Bishop's should ensure that this data is presented to the University Board and Senate by a senior leader within the administration.
43. Bishop's should report to the University community in October 2022 and March 2023 on the implementation of the recommendations made in this IRP Report.
44. Bishop's should report to the University community on how it will apply s.99 of [Bill 64](#), [*Loi modernisant des dispositions législatives en matière de protection des renseignements personnels*, LQ 2021, c 25] within its policy, which will require universities to share the results of disciplinary processes with a survivor who files a formal report.

**N. DEVELOP AND IMPLEMENT TRAINING THAT IS EVOLVING AND DEVELOPED FOR THE SPECIFIC AUDIENCE**

45. The education and training programs delivered by Bishop's should be evaluated annually or every other year for effectiveness and responsiveness to the diversity and needs of the student body.



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## **SCHEDULE A**

### **Terms of Reference for Independent Review of the Prevention of Sexual Violence Policy, Procedure and Practices at Bishop's University**

#### **Background:**

In response to allegations of sexual violence and concerns regarding student safety at Bishop's University (the "University") in November 2021, the Board of Governors of the University passed a resolution that *"the Board of Governors is committed to supporting survivors of sexual violence and the management team at the University in their efforts to prevent sexual violence and in making the campus safer for everyone."*

As part of this commitment, the University seeks to obtain an Independent External Review, the mandate of which is to make recommendations to improve the University's practices, policies, and procedures in response to disclosures, reports, and formal complaints of sexualized violence.

#### **Mandate:**

Bishop's 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.

#### **Scope of Independent External Review:**

The Independent External Review will assess the implementation of the University's policy for the Prevention of Sexual Violence, along with other policies and procedures with which it intersects, in order to ensure that the University has effective practices and procedures that are: responsive to those who report experiences of sexual harm; trauma-informed; and procedurally fair to complainants and respondents.

The Independent External Review will consider policies and procedures as they relate to both students and staff/faculty. The review will include a 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.

Sample questions that CCLISAR will canvas in the consultations are attached at Appendix A.

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.

### **Time Frame:**

#### **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. This stage of the review will also include a review of other university policies on sexualized violence and relevant secondary literature and reports. Any documents produced by Bishop's to the IRP during the document review process that contain personal identifying information will be held in strict confidence by the IRP and will be used only for the purpose of the mandate.

Stage 2. The IRP will conduct consultations with members of the University community. These consultations will be conducted over the equivalent of a three-day period in late January, February, and March 2022 and will be done virtually. The focus of the consultations will be on the operation of the University's Prevention of Sexual Violence Policy and Procedure and any policies with which it intersects. The consultations will include meetings with any individual members of the University community, as well representatives of groups (e.g. departments, clubs, athletic teams, or other organizations) who express an interest in meeting with the IRP. The IRP will also meet with external community groups or organizations as appropriate. 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 Board's Ad Hoc Committee on the Prevention of



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Sexual Violence (“Ad Hoc Committee”) will be consulted by the IRP in identifying the persons and groups consulted by the IRP.

The University community will also be invited, during the months of January, February, and March 2022 to provide confidential written input to the IRP. The IRP will use the email address of the IRP Chair [e.g. IRP@cclisar.ca] for the purpose of receiving comments and information regarding the operation of the University’s Prevention of Sexual Violence Policy and Procedure and any policies with which it intersects. This email account and its intended purpose will be advertised by the University in January – March 2022.

Any comments, observations, or insights offered during these consultations or in writing will remain unattributed in CCLISAR’s report. The IRP’s notes and emails received through the IRP’s designated email 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. This group will meet for a one-day online workshop to discuss the issues and ideas reviewed in the background document. The meeting shall take place virtually in April or May 2022. The Expert Advisory Group will provide advice to the IRP.

Stage 4. The IRP will finalize its report and will provide it to the University by June 10, 2022.

#### **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 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. At least one member of the IRP will be fluently bilingual in English and French.

### **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 chair of the Board's Ad Hoc Committee on the Prevention of Sexual Violence and up to five additional members of the University community, selected by the Chair of the Ad Hoc Committee on the Prevention of Sexual Violence in consultation with the IRP. Members of the EAG from the University 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 2022:	Finalize terms of reference/contract Begin review of documents provided by University Compile list of relevant stakeholders for consultations (in consultation with University) Schedule first round of consultations (in collaboration with University)
Jan-March 2022:	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 November 2021 Consultations with the University community Bi-weekly check-ins by the IRP Chair with the Secretary General and the Chair of the Ad Hoc Committee
March/April 2022:	Preparation of background document based on interviews, consultations, and policy/procedure review, identifying themes from the consultations and preliminary recommendations



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- April/May 2022: Expert Advisory Group Workshop  
Follow up interviews and consultations as necessary and requested by the IRP
- May 2022: Prepare and finalize CCLISAR IRP Report
- June 10, 2022: Submit CCLISAR IRP Report to University  
If invited, IRP Chair to provide briefing on final report and recommendations to the Board of Governors

## **Terms of Reference Appendix A**

### **Sample areas and questions on which the IRP will be seeking the input of the Bishop's University community members consulted**

#### **Dynamics of sexual violence at Bishop's University**

- We are interested in hearing your perspectives on the what/where/by whom of sexual violence as it relates to the living/learning/working experience at Bishop's University, including incidents on and off-campus (including dynamics in residence or at certain events).

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

- 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 disclosures or reporting related to Bishop's policy, procedure, or institutional structures or responses or the way in which barriers that apply across contexts impact members of the Bishop's University community.
- 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 Immediate Measures following a disclosure or report of sexual assault**

- What are Bishop's community members' views on Bishop's use of accommodations, informal resolution and/or immediate measures in response to disclosures of sexual violence?
- Do informal resolutions and/or immediate measures address complainants' needs and circumstances? Are they fair to respondents?
- To what extent are or should immediate measures or informal resolutions be confidential?

#### **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,



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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?

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

- Is there a good understanding by students, staff, and faculty of the Prevention of 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?
- Do students/staff/faculty know what to do if they experience sexual violence? If they receive a disclosure of sexual violence?

### **Sanctions/Remedies**

- What should be the range of appropriate sanctions/remedies for sexual violence?
- What are community members' views on remedies or measures for respondents such as residence-transfer, counselling or education, and alcohol prohibition, in cases involving student-on-student sexual violence?

### **Aggregate Data, Communications and Transparency**

- 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 Bishop's community members' views on how to address the often competing goals of institutional transparency and accountability with respect for individual privacy?
- More generally, what are community members' views on the information that would encourage transparency, accountability, and consistency, including so that the Bishop's community is aware that actions have been taken to support survivors.

The above represents a few of the areas of questions that the IRP will explore when the IRP conducts consultations. The IRP will, of course, be open to other issues and areas being

identified by Bishop's community members and will raise questions that are specific to each group consulted.



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## **Schedule B**

### **IRP's Communication to Bishop's**

Dear Bishop's University Community Members,

We are pleased to introduce ourselves as the Independent Review Panel (IRP) tasked with conducting a comprehensive review of Bishop's University's sexual violence policies, procedures, practices and resources. If you want to learn more about us, biographies are below.

We are working with the Canadian Centre for Legal Innovation in Sexual Assault Response (CCLISAR [www.cclisar.ca](http://www.cclisar.ca)), which Bishop's University 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.

Central to our review process is hearing from you.

We will be hosting zoom consultations in the months of February and March 2022. The consultations will include interviews with individuals and groups at Bishop's, including representatives of student groups, staff of the university departments that respond to sexual violence, faculty members, unions and community partners.

We will also ensure that interested individuals, whether students, staff or faculty, will have an opportunity to speak with us. Caroline Rossier-Lang (email: [crossier@ubishops.ca](mailto:crossier@ubishops.ca)) will be coordinating a sign-up process for this purpose. Please email her if you wish to meet with us.

We also encourage university community members to provide us with thoughts and comments by email at [bishopsirp@cclisar.ca](mailto:bishopsirp@cclisar.ca). The email 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.

The meeting dates on which we will be holding consultations include February 3, 10, 28 and March 2 and 3, 2022.

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 Bishop’s University.

Our final report will be delivered to Bishop’s by June 10, 2022.

We very much look forward to meeting with Bishop’s community members in the coming weeks.

Yours very truly,

Joanna Birenbaum, Angela Campbell, Carissima Mathen

### **Joanna Birenbaum**

Joanna Birenbaum is a leading lawyer in the area of gender equality and sexual violence. Her two decades of experience in these areas includes constitutional litigation, civil sexual assault claims, advising institutions on sexual violence policies and practices, workplace investigations, representing complainants in sexual history and third-party records applications in criminal sex assault proceedings, defending malicious prosecution and defamation claims targeting women who have reported sexual violence, and prosecuting sexual abuse professional discipline cases. Joanna was the legal director of a national women’s equality organization and the acting legal director of the Barbra Schlifer Commemorative Clinic, which serves marginalized and racialized populations of women that have survived violence.

Joanna’s publications in the area of sexual violence include 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).

Joanna was the Chair of two previous CCLISAR Independent Review Panels of university sexual violence policies and practices, which can be found [here](#).



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Joanna has acted as counsel for various equality-seeking interveners at the Supreme Court of Canada including in *Platnick v Bent* 2020 SCC 23 (anti-slapp motions), *R v. Nur* 2015 SCC 15 (mandatory minimum sentences), *R v. J.J.* and *R v. Kirkpatrick* (2021 equality issues in sexual assault law) and *R v. Quesnelle* 2014 SCC 46, and *R v. D.A.I.* 2012 SCC 5 (access to justice for sexual assault survivors).

Joanna is Ontario counsel for the National Centre for Truth and Reconciliation, representing the NCTR in the courts, including the Supreme Court of Canada in *R v. Fontaine* 2017 SCC 47, on issues related to the preservation of the records and history of residential schools under the Indian Residential Schools Settlement Agreement.

In 2021, Joanna was awarded the President's Award by the Women's Law Association of Ontario, recognizing her leadership and substantial contributions to the legal community. Joanna was a 2014-2015 McMurtry Fellow at Osgoode Hall Law School and was adjunct faculty at Osgoode (2014-2017) teaching Law, Gender and Equality and co-directing Osgoode's Feminist Legal Advocacy clinical program. In addition to her private practice, Joanna is the Director of Capacity Building for CCLISAR (Canadian Centre for Legal Innovation in Sexual Assault Response).

### **Angela Campbell**

Angela Campbell is a full professor at McGill Faculty of Law. She researches and teaches in the areas of family law, health law, criminal law, successions law and feminist legal studies. Professor Campbell is also [Associate Provost](#) (Equity & Academic Policies) of McGill since 2015.

As Associate Provost, Professor Campbell led the process to establish McGill's initial Policy against Sexual Violence in 2016 and its comprehensive review in 2019. She is responsible for training and education at McGill, including the university's mandatory online sexual violence education module, [It Takes All of Us](#). Professor Campbell also oversees the Office of Mediation and Reporting at McGill, which addresses all reports of sexual violence, harassment, and discrimination.

Prior to joining the Faculty of Law at McGill, Professor Campbell clerked for The Honourable Mr. Justice Frank Iacobucci at the Supreme Court of Canada and taught at the University of Ottawa's Faculty of Law (Common Law). She earned her B.A. (Hons), B.C.L. and LL.B. degrees

from McGill University. She completed her LL.M. at Harvard Law School as a Frank Knox fellow and Langdon H. Gammon fellow.

Her research has been funded by the Social Science and Humanities Research Council of Canada, *La Fondation du Barreau du Québec*, *La Chambre des Notaires du Québec*, and the Foundation for Legal Research. She is currently one of the researchers in the project *Accès au Droit et à la Justice*. Professor Campbell is co-directing Section 9 of the project which concentrates on access to justice for the youth. She is also the author of [\*Sister Wives, Sex Workers and Surrogates: Outlaws by Choice?\*](#) (Ashgate 2013). Most recently, she has published on sexual violence courts and has provided evidence to government bodies on this matter.

Professor Campbell was awarded the John W. Durnford Teaching Excellence Award (2011) and Graduate Law Students' Association's Graduate Teaching Award (2015).

Professor Campbell supervises graduate and postdoctoral students working on topics germane to family law, criminal justice, the child and law, feminist theory, successions, women's health and reproductive rights, disability and legal pluralism.

### **Carissima Mathen**

Carissima Mathen, LSM is full professor of law at the University of Ottawa. Originally from Montreal, she holds degrees from McGill, Osgoode Hall and Columbia University Law School. Prior to becoming a full-time academic she was Counsel and, later, Director of Litigation for the Women's Legal Education and Action Fund (LEAF) undertaking equality rights litigation before the Supreme Court of Canada and other courts. She was involved in numerous path-breaking decisions, including several in sexual assault: R v [Ewanchuk](#), [R v Darrach](#) and [R v Mills](#).

Professor Mathen is an expert in Canadian constitutional and criminal law. She has authored several books, including the award-winning [\*Courts Without Cases: The Law and Politics of Advisory Opinions\*](#) (Hart, 2019). She is the Editor of the leading casebook, *Canadian Constitutional Law 6th Edition* (forthcoming, Emond). Her work has been funded by the Social Sciences and Humanities Research Council of Canada and the Law Foundation of Ontario. Currently, she leads a research team applying legal data analytics (LDA) to Supreme Court decisions.



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Professor Mathen's scholarship spans all areas of constitutional law, as well as criminal law, legal pedagogy and feminist legal theory. Her work has appeared in various journals including *The Supreme Court Law Review*, *Osgoode Hall Law Journal*, *National Journal of Constitutional Law*, *Canadian Bar Review*, and *Queen's Law Journal*. In 2018, the Law Faculty recognized her work with the Award for Excellence in Legal Research.

Professor Mathen has published numerous op eds and is regularly cited in national media. In 2016, she received the Law Faculty's Award for Excellence in Media Relations and, in 2018, the University of Ottawa's Media Relations Award (Commentary). She is committed to public education and legal literacy. She is a recipient of the Law Society Medal, one of the highest honours bestowed by the Ontario bar.

## **SCHEDULE C**

### **SAMPLE DETAILED IMMEDIATE MEASURES POLICY PROVISIONS**

#### **1. IMMEDIATE MEASURES**

- 1.1 Immediate Measures may be imposed by the Dean of Students on a student Respondent at any time following a Disclosure or Formal Report of Sexual violence, in accordance with this section.
- 1.2 Immediate Measures may be initiated at the request of the Complainant or on Bishop's own initiative.
- 1.3 Where a Complainant requests Immediate Measures following a Disclosure, the Complainant must consent to the release of their name and the general nature of the allegations to the Respondent. The release of the name and some information about the allegations is necessary for the process to be procedurally fair.
- 1.4 Immediate Measures include, but are not limited to:
  1. No-contact/communication orders
  2. Arrangements to minimize encounters in learning, living, or working environments such as changes in class schedules or sections, residence location, work schedules or assignments
  3. Suspension of ability to participate in team practices or games
  4. Restricting campus privileges of the Respondent
  5. Restricting access to part or all of the Bishop's campus on the part of the Respondent, up to and including a campus ban/no trespass order
  6. Administrative suspension of the Respondent.
- 1.5 Immediate Measures may be imposed on a student Respondent by the Dean of Students where there is reasonable cause to believe that Immediate Measures are required to achieve any of the following:
  1. To protect the safety, security or academic, residence, or employment well-being of the Complainant or any other Member of the Bishop's community



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2. To address any risk posed by the Respondent to the safety and well-being of the Complainant and/or to the Bishop's community
3. To maintain confidentiality and/or the integrity of a Bishop's investigation or anticipated investigation
4. To discourage or prevent retaliation
5. To minimize disruption to the learning, residence, or working environment at Bishop's
6. To maintain and build community trust and confidence in Bishop's
7. To maintain and promote a campus environment in which sexual violence is not tolerated.

1.6 In addition to the above factors, the Dean of Students shall consider:

1. The wishes and expressed needs of the Complainant
2. The views of the Respondent, if available
3. The nature and seriousness of the alleged conduct
4. The impact of the conduct on the Complainant and/or on the Bishop's community
5. The impact of the proposed measures on the Respondent, and
6. Whether the Respondent is in a position of trust or authority

1.7 Any Immediate Measures imposed shall be reasonable and justified in the circumstances to meet the above goals.

1.8 The Respondent shall receive notice in writing from the Dean of Students that the Dean either intends to impose Immediate Measures, or in cases under para. 1.17 and 1.18, that the Dean of Students has already imposed Immediate Measures.

1.9 The Respondent may provide a response to the Dean of Students within 48 hours following receipt of the notice. The timeline for the Respondent's response may be extended in extenuating circumstances.

- 1.10 The Respondent's response may include consent to the Immediate Measure on an interim basis, with a request that it be reconsidered or reviewed based on additional information, within a specified period of time.
- 1.11 The Complainant will be provided a copy or summary of the Respondent's response to the imposition of Immediate Measures, and 48 hours to respond. The timeline for the Complainant's response may be extended in extenuating circumstances.
- 1.12 The Dean of Students shall consider the information provided by the parties in making the decision on Immediate Measures. The Dean of Students may also consult with the Initial Assessment Committee in making their decision.
- 1.13 Within 48 hours of the imposition of Immediate Measures on a Respondent, the Dean of Students will provide a written letter to the Respondent's Bishop's-issued email address or to the Respondent through the [support person for the Respondent at Bishop's], setting out the decision made, the information relied on in making that decision, and the reasons for the decision.
- 1.14 At any time either the Respondent or the Complainant may request that the Dean of Students modify or remove the Immediate Measures. Such request should be made through the [SVSC] (for the Complainant) or the [relevant support office/person] (for the Respondent).
- 1.15 A request for reconsideration of the Immediate Measures is appropriate in cases where there has been a change of circumstances. Where a request to reconsider the Immediate Measures is made, the other party will be advised of the request and provided an opportunity to respond.
- 1.16 If Immediate Measures are amended or modified by the Dean of Students, a decision letter confirming any changes, the measures remaining in place, and the reasons for the amendments, shall be provided to both the Respondent and the Complainant.
- 1.17 In urgent circumstances, such as where delay may cause harm to the Complainant and/or to the Bishop's community or any Member of the Bishop's community, the Dean of Students may impose Immediate Measures immediately and prior to hearing from the Respondent.



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- 1.18 In such cases, Notice in writing of the Immediate Measures shall be provided to the Respondent through the [appropriate office or position] within 24 hours of the decision being made. The Respondent shall have an opportunity to respond within 7 days. The Dean of Students shall consider any submissions or new information provided by the Respondent and may modify or reconfirm the Immediate Measures.
- 1.19 If the immediate Measure is a suspension or campus ban, any formal investigation will be undertaken on an expedited basis.
- 1.20 Student Respondents may be entitled to accommodations arising from Immediate Measures (such as in the case of a campus ban) which may be requested through the [appropriate office].
- 1.21 Immediate Measures imposed on a student Respondent may remain in place indefinitely where:
1. A Disclosure or Report but no Formal Complaint has been made and no investigation initiated;
  2. The Immediate Measures meet the needs of the Complainant and the Complainant and Respondent consent; and
  3. The Immediate Measures address the safety, remedial, and campus culture responsibilities of Bishop's.
- 1.22 Despite any agreement by the parties to continue the Immediate Measures indefinitely, any party may subsequently request a reconsideration of the Immediate Measures, or the Complainant may elect to initiate a Formal Report.

## SCHEDULE D

### 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.

## SCHEDULE E

### EXCERPT- UNIVERSITY OF MANITOBA SEXUAL VIOLENCE POLICY Re Aggregate Reporting

#### ANNUAL REPORT

2.11 The OHRCM will produce and provide an annual report to the Designated Officer, outlining:

- (a) Information on activities undertaken to raise awareness and contribute to prevention, including the type of activity and the number of students and staff who attend;
- (b) De-identified data regarding the number and types of Disclosures and Formal Complaints received;
- (c) De-identified data on process factors such as the number and types of Investigations conducted and whether they resulted in a finding of Breach or No Breach;
- (d) Aggregate anonymized data on Complainant and Respondent roles at the University;
- (e) De-identified data on fairness factors such as time to process and the identity of investigators;
- (f) Lessons learned flowing from after-action reviews;
- (g) Information regarding observable trends and commentary on the implementation and effectiveness of the Policy; and
- (h) Other relevant information which may further the implementation of the Policy and its Procedures.

2.12 The annual report will be made available to the University Community.