



Procedure

Procedure Name	<i>Gender Based and Sexual Violence Complaints Procedure</i>		
Procedure #	HS 3.2	Parent Policy	HS 3.0 Gender Based and Sexual Violence Prevention and Response Policy
Policy Owner	Chair, Governance Committee	Effective Date	December 7, 2022
Procedure Owner	Vice President, Students and Campus Life	Next Review Date	December 7, 2027
Approved by	Vice President, Students and Campus Life	Approval Date	December 6, 2022

1.0 Purpose/ Background

Gender Based and Sexual Violence is unacceptable and will not be tolerated. NAIT is committed to preventing and addressing Gender Based and Sexual Violence and creating a safe and positive space where members of the community are able to work, learn, and express themselves in an environment free from Gender Based and Sexual Violence. This document sets out NAIT's response protocol to Gender Based and Sexual Violence that protects the rights of all and holds those who have committed acts of Gender Based and Sexual Violence accountable.

2.0 Definitions

Term	Definition
Accommodation	An accommodation is a change to a rule, approach, or environment to meet the needs of an individual and allow them to engage in a process. Typically, accommodations are provided in relation to protected grounds identified under human rights legislation, but in cases of Gender Based and Sexual Violence accommodation may be in relation to the impact of violence and trauma.
Complainant	The person who brings forward information that a violation of the Policy may have occurred OR who was primarily impacted by the violation.
Complaint	A formal allegation of a policy violation submitted to NAIT by a Complainant seeking recourse in accordance with NAIT policy and/or procedure.
Consent	A voluntary agreement to engage in a behaviour or activity. This is an active, direct, voluntary, unimpaired, ongoing, reversible, and conscious choice and agreement between individuals engaging in the behaviour or activity. Consent cannot be obtained through the abuse of a position of power, trust, or authority.
Disclosure	When an individual shares information about a personal experience of Gender Based or Sexual Violence to someone who did not previously know.

Employee	Executives and management, faculty, and staff/employees that are paid a salary or wage by the institute whether they work full time, part time, or casually on a contractual basis.
Gender Based and Sexual Violence	Any violence, physical or psychological, that is committed, threatened, or attempted against another individual without the individual's consent by targeting an individual because of their sex, gender identity, gender expression, or sexual orientation. Gender Based and Sexual Violence is an umbrella term that includes Gender Based Violence, Sexual Harassment, and Sexual Assault, and can include a single incident or a pattern of behaviour.
Gender Based Violence	Any violence, physical or psychological, that is committed, threatened, or attempted against another individual without the individual's Consent by targeting gender, gender identity, or gender expression, including but not limited to sexist, homophobic, and/or transphobic comments, materials, jokes, or images.
Harm-Reduction	A recognition that the processes used to address Gender Based and Sexual Violence can cause additional harm in themselves and a set of practices that, wherever possible, seek to limit and reduce the negative consequences of Gender Based and Sexual Violence and related processes on the involved parties.
Interim Measure	A temporary measure against a respondent that is intended to reduce the risk of harm to the NAIT Community or Survivor while an investigation and resolution process is underway.
NAIT Community	NAIT students, employees, volunteers, visitors, contractors, tenants, and members of the Board of Governors, when on NAIT property, in NAIT Learning, Working, or Social Environments, or while representing NAIT, whether in-person or online.
NAIT Learning Environment	The physical and virtual space where learning takes place including, but not limited, to classrooms, hallways, common areas, labs, digital learning resources such as Moodle, work-integrated learning locations, all social media platforms, and other spaces on campus.
NAIT Social Environment	The physical and virtual space where members of the NAIT community gather and interact for social and/or recreational reasons. This includes but is not limited to on-campus common areas, recreational facilities, and hallways, all social media platforms, and any form of gathering with an identifiable and substantial connection to NAIT.
NAIT Working Environment	The physical and virtual space where an employee performs work duties and interacts with others which includes, but is not limited to offices, hallways, common areas, classrooms/labs/shops, digital communication platforms such as Microsoft Teams, work-integrated learning locations, all social media platforms, and other spaces on campus.
Natural Justice and Procedural Fairness	The principles that an investigation or adjudication should be unbiased and conducted in good faith and that parties have a right to be heard.
Process Accommodations	Accommodations available during a Gender Based or Sexual Violence Disclosure or Complaint, including, but not limited to: <ul style="list-style-type: none"> • Access to assistive technology or sign-language interpreting • Incorporation of cultural components (e.g. allowing the interviewee to use a talking piece or religious artifact) • Use of multiple means of communication including verbal, written, images, etc.
Respondent	The person alleged to have violated the Policy.

Sexual Assault	Any sexual contact without Consent, which can include but is not limited to forced oral contact, forced groping or fondling, forced vaginal or anal penetration, and forced oral to genitalia contact. The behaviour need not be intentional in order to be considered Sexual Assault.
Sexual Harassment	One or more unwanted or demeaning remarks, behaviours, or communications of a sexual nature and/or based on sex, gender identity, gender expression, or sexual orientation, where the individual responsible for the remarks, behaviours, or communications knows or ought reasonably to know that these are unwanted or demeaning. This can include but is not limited to requests or demands of a sexual nature, stalking, indecent exposure, voyeurism, touching of non-sexual body parts, creating, acquiring, or distributing sexual images or videos including images or videos of a NAIT Community member.
Sexual Violence	Umbrella term that includes Sexual Harassment and Sexual Assault.
Student	For the purposes of this Policy, we consider the following people as students: <ul style="list-style-type: none"> • Applicants to NAIT programs • Individuals currently enrolled in NAIT programs or courses • Individuals who have been enrolled in the past, but not currently active, and are making a Disclosure related to a previous experience in a NAIT Learning Environment or NAIT Social Environment • Alumni making a Disclosure related to a previous experience in a NAIT Learning Environment or NAIT Social Environment
Survivor	There are many terms that may be used in relation to a person who has experienced Gender Based or Sexual Violence or is bringing forward a Complaint about Gender Based or Sexual Violence. Individuals might be familiar with the term “victim” or prefer the term “complainant” as a neutral term. Some who have experienced Gender Based or Sexual Violence may choose to identify as a survivor, as an indication of having overcome the experience rather than being victimized by it. NAIT uses the term Survivor throughout the related Policy and Procedures where it applies to those who have experienced Gender Based or Sexual Violence. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify. “Survivor” and “Complainant” means the same thing in the execution of this policy, but every effort is made to use the term “Survivor” in instances of Gender Based or Sexual violence. Use of the term “Survivor” does not indicate an assumption of guilt of an individual.
Trauma-Informed Practices	Trauma-Informed refers to acknowledging the harm that all parties involved in Gender Based or Sexual Violence may have endured and awareness that trauma impacts an individual’s emotional, cognitive, physical, and sexual well-being. Trauma-Informed Practices are approaches based in Harm-Reduction, avoiding re-traumatization, power consciousness, and providing dignity. This also includes providing support and training for those receiving Disclosures and involved in the Complaint process to reduce the impacts of trauma exposure.

3.0 Imminent Risk

- 3.1 Members of the NAIT Community who reasonably believe that violence is in progress or may occur imminently in a NAIT Learning, Working, or Social Environment or on NAIT property shall immediately contact 911 and [NAIT Protective Services](#).

4.0 Privacy Rights and Confidentiality

- 4.1 The privacy of all persons involved in a report or Complaint of Gender Based or Sexual Violence must be strictly observed. NAIT shall always endeavor to respect the confidentiality of all persons, including the Survivor, Respondent, and witnesses, subject to the obligations to adhere to the principles of Natural Justice and Procedural Fairness, and subject to any disclosure requirements pursuant to any applicable law.
- 4.2 The priority in responding to a Disclosure or Complaint will be providing support and ensuring an appropriate process for those affected. Survivors will not face sanctions or ramifications for drug and/or alcohol use revealed as part of a Gender Based or Sexual Violence Disclosure or Complaint.

5.0 Complaint Pathways

- 5.1 Complaints of Gender Based and Sexual Violence should be directed as follows
 - 5.1.1 If the Survivor is a Student, the Complaint should be filed with the Student Resolution Office (SRO). The [Student Resolution Office](#) will engage SR 1.1 Student Resolution Office Activation Procedure.
 - 5.1.1.1 In cases of Gender Based and Sexual Violence, the Student Resolution Office will collaborate with relevant NAIT areas, including but not limited to counselling, health/medical services, and Protective Services, to assess risk and identify next steps for NAIT.
 - 5.1.1.2 If the Respondent is a NAIT Employee, at the Survivor's request the complaint will be forwarded to Human Resources for investigation.
 - 5.1.2 If the Survivor is a NAIT Employee, the Complaint should be directed to the Associate Vice President of Human Resources. If the Associate Vice President of Human Resources is the subject of or otherwise involved with the conduct alleged in a Complaint, then the Complaint should be directed to the President or their designate.
 - 5.1.2.1 If the Respondent is a NAIT Student, at the Survivor's request, the file will be forwarded to the Student Resolution Office for investigation.
 - 5.1.3 If the Survivor is neither Employee nor Student, the Complaint should be filed with the Student Resolution Office.
 - 5.1.3.1 If the Respondent is a NAIT staff Employee, at the Survivor's request, the file will be forwarded to Human Resources for investigation.
 - 5.1.4 If both Complainant and Respondent are not members of the NAIT Community and do not have a legitimate business connection with NAIT, a Disclosure may be made and NAIT will refer to appropriate external resources, including law enforcement agencies, but NAIT will not investigate.
 - 5.1.4.1 NAIT will assist with any subsequent investigations by law enforcement agencies upon their request.

6.0 Investigation and Sanction Process

NAIT will seek to adhere to the principles of Natural Justice and Procedural Fairness in dealing with all Complaints. Due to the serious nature of Complaints of Gender Based and Sexual

Violence, NAIT will ensure Complaints are addressed both thoroughly and in as timely a manner as reasonably possible. Respondents in a formal investigation process will be given reasonable notice, with details of the Complaint, and will be provided with an opportunity to answer the Complaint made against them. Procedures for addressing Complaints are provided through various NAIT policies, including the following:

- 6.1 When the Respondent is a NAIT Employee:
 - 6.1.1 The investigation and disciplinary procedures shall be conducted under NAIT's Human Resources processes, GE 2.0: Code of Ethics and Conduct Policy, or a collective agreement, as may be applicable.
- 6.2 When the Respondent is a NAIT Student:
 - 6.2.1 The investigation, disciplinary procedures, and resolution shall be conducted under NAIT's Student Rights and Responsibilities policy, SR 1.0, and related procedures.
- 6.3 If the Respondent is an Employee *who is also* a Student, the case may proceed through the Formal Adjudication Procedure (SR 1.4) and/or a Human Resources process. The Student Resolution Office and the Associate Vice President of Human Resources will make a decision together which is the most appropriate process for the circumstance.
- 6.4 When the Respondent is not a Student or Employee: at the Survivor's request, the Complaint will be referred to an applicable NAIT department or party (for example, the tenancy agreement or contract holder). Where contractual agreements are in place permitting attendance on NAIT property, Learning Environments, Social Environments, or Working Environments, NAIT maintains the right to modify or void that contract.
- 6.5 In all cases, NAIT reserves the right to involve a third-party investigator.
- 6.6 In all cases, members of the NAIT Community involved in a Gender Based or Sexual Violence Complaint have the right to consult an advisor such as a NAITSA representative, a union/association representative, or other support person and have this person attend meetings with them. During the Complaint process, the advisor role is to advise and support the community member, not to represent them or speak for them.
- 6.7 In all cases, members of the NAIT Community involved in a Gender Based or Sexual Violence Complaint have the right to seek Accommodations during the process.
- 6.8 A Survivor may also wish to file a report with the law enforcement agency having jurisdiction for an investigation under the Criminal Code of Canada simultaneous to pursuing a Complaint through NAIT.
- 6.9 Where criminal or civil proceedings are commenced in respect to the allegations of Gender Based or Sexual Violence, NAIT may engage in its own investigation into such allegations using the processes identified in 6.1, 6.2, and 6.3, and will make its own determination in accordance with its policies and procedures.
- 6.10 A Survivor will not be required to meet with the Respondent, but may do so by personal choice.
 - 6.10.1 A Survivor may be asked to respond to information provided by a Respondent as part of the Complaint process.
- 6.11 Survivors will be kept updated on the progress of their Complaint including knowing when the investigation and resolution has been completed. To protect privacy rights of the Respondent, they will not be provided details on the individual outcome of the case but will be apprised of institutional accountability and changes made institutionally in response to their Complaint when applicable.

7.0 Right to Withdraw a Complaint

- 7.1 A Survivor has the right to withdraw a Complaint at any stage of the proceedings under this procedure.
- 7.2 NAIT may continue to act on the issue identified in the Complaint in some situations, including but not limited to:
 - 7.2.1 When an incident of Gender Based or Sexual Violence has been made public, such as Disclosures shared on public websites or social media;
 - 7.2.2 When a legal obligation to report exists, such as possible risk to a minor
 - 7.2.3 When multiple Disclosures have been received about a single Respondent
 - 7.2.4 When the matter is deemed to pose a threat to the safety of the NAIT Community
- 7.3 In cases where a Survivor has withdrawn their Complaint but NAIT has continued investigating the Complaint, the Survivor still has the right to access support and to be informed, as much as possible and desired, on the progress and outcome of the process subject to the privacy rights of the Respondent.

8.0 Protection from Reprisals, Retaliation, or Threats

- 8.1 It is contrary to the Gender Based and Sexual Violence Prevention and Response Policy and this procedure for anyone to retaliate, engage in reprisals, or threaten to retaliate against a Survivor or other individual for:
 - 8.1.1 Having pursued rights under the policy and this procedure, or for having pursued other legal remedies, including under the Alberta Human Rights Act, the Criminal Code of Canada, or civil litigation; or
 - 8.1.2 Having participated or co-operated in an investigation under the policy and this procedure or other processes identified herein; or having been associated with an individual who has pursued rights under the policy, this procedure, or the other processes identified herein
- 8.2 Anyone engaged in such conduct may be subject to sanctions or discipline pursuant to the Student Rights and Responsibilities Policy, NAIT's Human Resources practices, the Code of Ethics and Conduct policy, or a collective agreement with NAIT, as may be applicable.

9.0 Appeal

- 9.1 Student Respondents may appeal investigation results and disciplinary procedures in accordance with SR 1.05 Student Appeals Procedure.
- 9.2 Employee Survivors or Respondents may appeal investigation results and disciplinary procedures in accordance with any applicable collective agreements and common law/civil processes.

10.0 Exceptions to the Procedure

- 5.1 Exceptions to this procedure must be documented and formally approved by the Procedure Owner.
Procedure exceptions must include:
 - The nature of the exception
 - A reasonable explanation for why the procedure exception is required
 - Confirmation that the exception aligns with the general principles
 - Any risks created by the procedure exception and how they will be managed.

11.0 Related Documentation

Courage to Act: A Comprehensive Guide to Campus Gender-Based Violence Complaints

GE 2.0: Code of Ethics and Conduct Policy

HR 6.0: Respectful Workplace Policy and Procedure

HS 3.0: Gender Based and Sexual Violence Prevention and Response Policy

HS 3.1: Gender Based and Sexual Violence Disclosures and Support Procedure

LC 2.0: Safe Disclosure Policy and Procedure

SR 1.0: Student Rights and Responsibilities Policy and procedures

SR 1.1: Student Resolution Office Activation Procedure

SR 1.2: Alternative Resolution Procedure

SR 1.4: Formal Adjudication Procedure

SR 1.5: Student Appeals Procedure

Document History

<i>Date</i>	<i>Action/ Change</i>
<i>March 28, 2023</i>	<i>Removed reference to the Ombuds Office in 6.6</i>