The Ministry of Advanced Education, Skills and Training
PO Box 9080 Stn Prov Govt
Victoria BC
V8W9E2
CANADA

RE: Prevent Sexual Violence: BC Provincial Consultation and Engagement Campaign

Dear Honourable Melanie Mark,

We, being representatives from OurTurn are writing you this letter to express our feedback regarding the mandating of campus sexual violence policies in British Columbia and commitment to preventing campus sexual violence through the passing of Bill 23 the *Sexual Violence and Misconduct Policy Act*. OurTurn is a student-led organization working with over 600,000 students across 8 provinces and 26 student unions. OurTurn is giving these students the tools they need to prevent sexual violence, creating awareness and education campaigns, supporting survivors on their campuses, and lobbying for reforms at the campus, provincial and federal levels. It was initiated through the publication of the OurTurn National Action Plan ([ENG LINK](#) and [FR LINK](#)) - a bilingual, adaptable, action plan to end campus sexual violence through evidence-based programs and effective action. As part of the Action Plan, OurTurn released a comprehensive review and scoring of campus sexual violence policies across the country. Fourteen institutions across Canada were evaluated, including the University of British Columbia whose policy was reviewed in partnership with the Alma Mater Society of UBC Vancouver (UBC AMS).

This letter is to echo and build upon the feedback provided by the UBC AMS regarding the creation and implementation of campus sexual violence policies. It is to strongly encourage the provincial government of British Columbia to create more specific guidelines or minimum standards for campus sexual violence policies. Additionally, we are proposing the creation of provincial oversight mechanisms for campus sexual violence policies similar to those that exist in the United States and those that are being implemented in Quebec with the recent passing of campus sexual violence legislation.

As a grassroots organization working with students across the country at the campus level, we continuously hear stories of re-traumatization and the institutional harm survivors experience when they seek to access their campus sexual violence policies, occurring in spite of the passing of provincial legislation mandating the creation of these policies. This includes, but is not limited to: survivors on campuses being denied the ability to pursue a criminal and administrative complaint concurrently,
survivors not being fully informed of the sanction outcomes of their complaint, survivors having to experience mishandled academic accommodations and individuals enduring sexual violence complaints that extend for over a year and a half. The current reality in British Columbia and across the country, is a lack of consistency in processes and protections depending on the institution where a survivor experiences harm. Furthermore, if an institution were to mishandle a complaint, violate the terms of their own policy or create policies that undermine basic survivor rights, there is little accessible external recourse to support that individual who has experienced re-traumatization by their institution. To address the shortcoming of campus sexual violence policy legislation, we recommend two concrete actions that the provincial legislature can take: (1) the creation of campus sexual violence policy minimum standards and (2) the creation of campus sexual violence response oversight mechanisms.

**Survivor’s Rights and Minimum Protections**

First, under the current Bill 23 the *Sexual Violence and Misconduct Policy Act*, we argue that more protections should be instituted to ensure that a set of minimum standards is adhered to in all campus sexual violence formal and informal complaints – regardless of the institution a survivor attends. This could be included within the provincial campus sexual violence policy guidelines as minimum standards that must be included in all campus sexual violence policies. Through our comprehensive national research published in the OurTurn National Action Plan (linked above) we have demonstrated the lack of uniformity in policies across Canada, including British Columbia, that is resulting in re-traumatization as students come forward to seek supports for the harm they have experienced. As such, we strongly recommend there be a creation of a minimum standards guidelines to inform institutions of what is expected of their responses to campus sexual violence and to inform survivors of what they can expect and advocate for when seeking recourse through their campus sexual violence policy. These minimum standards should include the right to pursue a criminal and administrative complaint concurrently, mandatory external sexual violence sensitivity training for anyone with adjudicative or decision-making powers in the complaint process, rape shield protections and timelines. The creation of minimum standards would significantly improve the process of going through a sexual violence complaint for survivors and ensure that students regardless of their campus have access to basic rights while seeking support. We have included a full list of recommended minimum standards as Appendix A to this document.

**Oversight Mechanisms**

Second, under the current Bill 23 the *Sexual Violence and Misconduct Policy Act*, there is a disconcerting lack of protections for survivors of campus sexual violence who experience institutional harm – whereby post-secondary institutions mishandle or violate the rights of survivors seeking recourse through the policy. This has resulted in a campus climate whereby post-secondary institutions are unaccountable for their handling of sexual violence policy complaints. Survivors, who are often vulnerable, have no formal recourse if their institution violates their rights or mishandles their complaint. Currently the only available recourse in British Columbia is the British Columbia Human Rights Commission and Tribunal, whereby survivors must bring a complaint against their institution, a
lengthy and external process that is often inaccessible to survivors. Feeling unsupported and in some cases actively undermined by their institutions, many survivors choose to withdraw or not file their complaints and endure the personal, professional and academic impacts of the (re)-trauma.

We argue that it is the gaps within Bill 23, that has facilitated the current situation of the lack of accountability when it comes to how institutions handle sexual violence complaints. As such, we recommend that the British Columbia government must take on a larger role in providing supports to survivors of campus sexual violence and holding post-secondary institutions accountable to ensure they adequately and sensitively respond to cases of sexual violence. There are many models that this oversight mechanism can adopt. However, ideally it would include an independent oversight office would provide survivors who have been re-traumatised with an avenue to reach out to the Ministry regarding harmful post-secondary responses to sexual violence. This process should be included and well explained in each sexual violence policy across British Columbia. Undoubtedly the creation of oversight mechanisms would require significant consultation and research, however we recommend British Columbia follow the lead of Quebec who created oversight mechanisms under Chapter IV of the recently passed Bill 151 An Act to Prevent and Fight Sexual Violence in Higher Education Institutions. Under this clause, the Minister has the ability to select experts for the institution to hire to ensure they are in compliance will Bill 151 and the numerous minimum prevention and procedural standards they mandated. We argue that, regardless of the model, it is vital to create mechanisms overseeing the implementation of sexual violence policies across British Columbia, as well as making sure that post-secondary institutions are complying with Bill 23 and adequately adhering to the processes laid out in their individual sexual violence policies.

In sum, as an organization working with students and survivors across the country, we are grateful for the creation of Bill 23 and acknowledge that the passing of this legislation was an important step forward for British Columbia and other provinces now following suit. However, there is still work to be done. We believe that the inclusion of our recommendations will allow for the British Columbia government to take on once again a leadership role in responding to campus sexual violence and supporting survivors of campus sexual violence from both their perpetrators and institutions. If you have any additional questions or require further clarification please do not hesitate to reach us at nationalourturn@gmail.com.

Sincerely,

Caitlin Salvino  
Chair, OurTurn

Jade Cooligan Pang  
Vice-Chair, OurTurn

Greg Owens  
VP Mobilization, OurTurn

Paxton Caseley  
VP Mobilization, OurTurn
Appendix A: Survivor Rights/Minimum Standards for Campus Sexual Violence Policies

These minimum standards or guidelines could include requiring:

(1) Right to both Criminal and Institutional Processes;
   (a) Some policies currently state that the complainant has the ability to go through the criminal and institutional process; however, this is not true in practice. Many policies include a hidden clause which allows institutions to refuse a complainant the ability to go through the institutional process if they are also going through a criminal process.

(2) Mandatory External Sexual Violence Training for Decision-Makers;
   (a) This training should include sexual violence sensitivity training and intersectionality training.

(3) Rape Shield Protections;
   (a) Similar to the criminal code protections, survivors should be protected from questions regarding their sexual history while pursuing an informal or formal complaint process.

(4) Protections from Face to Face Encounters;
   (a) Survivors across the province should have the right to a sensitive and trauma-informed process. This would include protections from being required to be present in the same room as the respondent they have filed a sexual violence complaint against. To ensure procedural fairness the process can include screens or video technology. Face to face encounter protections should be uniform across the province.

(5) Timelines;
   (a) Formal complaints that do not exceed 90 days and 5 days for immediate accommodations;

(6) Protections from Gag Orders including Narrower Limitations on Confidentiality Requirements in Complaints;
   (a) The requirements of confidentiality imposed through campus sexual violence policies must be clarified and narrowed to ensure that survivors are not silenced if they seek formal recourse through their institution.

(7) Inclusion of Stealthing in Sexual Misconduct definition
   (a) Stealthing is defined as the removal of a condom without consent. Through our work, we have met several survivors of campus sexual violence who experienced stealthing and discussed the emotional and physical impacts of this harm. To them, a significant barrier to reporting was that they did not believe stealthing fell under the purview of their campus sexual violence policy.
Thus we recommend it is explicitly defined in each policy so that survivors are aware that it is a form of sexual violence that they can report.

(8) Sanctions ordered against Respondent be made known to Complainant

(a) The process whereby complainants are informed of the outcomes and sanctions of the complaint process must be clarified in reference to the Freedom of Information and Protection of Privacy Act (FIPPA) and made uniform across the province.