


Procedure Name:	SEXUAL VIOLENCE AND MISCONDUCT RESPONSE PROCEDURE	
Approved By:	President's Council	
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Procedure Holder:	VP, Academic, Students, and International	
Operational Lead:	Dean, Teaching, Learning, and Student Success	
Procedure Number:	EDU-007P	

## SEXUAL VIOLENCE AND MISCONDUCT RESPONSE PROCEDURE

### 1.00 PURPOSE

- 1.1 Sexual violence and misconduct can have serious negative impacts on an individual's physical, mental, emotional, and spiritual health and wellness. The College recognizes the possible traumatic effects and encourages the efforts of individuals to seek support.
- 1.2 The College is committed to ensuring all College Community members affected by sexual violence and misconduct receive support, and have their concerns taken seriously and handled efficiently in a timely manner. Members have the choice to formally report to the police. The College will provide detailed information about on and off campus support resources available.

### 2.00 DEFINITIONS

- 2.1 **College Community:** Anyone who works or studies at the College, including students, employees, contractors, volunteers, visitors, and guests.
- 2.2 **Complainant:** An individual who has made a complaint of sexual violence and/or misconduct.
- 2.3 **Complaint:** A formal request by an individual that a matter be investigated by the College.
- 2.4 **Consent:** Active, direct, voluntary, uncoerced, ongoing, unimpaired, and conscious choice and agreement between adults to engage in physical contact or sexual activity. Refer to *Sexual Violence and Misconduct Policy* for complete definition.
- 2.5 **Disclosure:** The communication to anyone within the College Community of an experience of sexual violence and/or misconduct. Refer to *Sexual Violence and Misconduct Policy* for complete definition.
- 2.6 **Employee:** Any person employed by the College and, within the application of this policy, including members of the Board of Governors.
- 2.7 **Inform:** The provision of information by an individual about an act of sexual violence or misconduct to the Dean of Student Success (as a student) or Director of Human Resources (as an employee).

- 2.8 **Respondent:** A person or persons alleged to have committed an act of sexual violence or misconduct whom a compliant is made against.
- 2.9 **Sexual Assault:** Any form of unwelcome activity of a sexual nature imposed by one person (or more) – this could be a partner, friend, acquaintance, or stranger – on another without consent. Refer to *Sexual Violence and Misconduct Policy* for complete definition.
- 2.10 **Sexual Exploitation:** Sexual abuse of a person through the exchange of sex or sexual actions for food, drugs, shelter, grades, or other benefits. Generally, this would include a person in a position of power or trust taking advantage of another person.
- 2.11 **Sexual Harassment:** A course of unwanted remarks, behaviours, or communications of a sexual nature where the person responsible for the remarks, behaviours, or communications knows or ought reasonably to know that these are unwanted. Refer to *Sexual Violence and Misconduct Policy* for complete definition.
- 2.12 **Sexual Violence and Misconduct:** Any misconduct of a sexual nature – physical or psychological – that is committed, threatened, or attempted against a person without the person’s consent. Refer to *Sexual Violence and Misconduct Policy* for complete definition.
- 2.13 **Stalking:** A form of criminal harassment involving behaviour that occurs on more than one occasion and which collectively instills fear in a person or threaten a person’s safety or mental health. Refer to *Sexual Violence and Misconduct Policy* for complete definition.
- 2.14 **Student:** An individual who is applying to or registered in a course or program at the College, or who has been registered in a course or program at the time of the reported misconduct.

### 3.00 RESPONDING TO A DISCLOSURE

- 3.1 A person who has experienced sexual violence and misconduct may choose to disclose this information to anyone. The response to a disclosure can play a critical role in how the individual seeks support and resources.
- 3.2 A supportive response includes:
  - a) listening without judgement
  - b) communicating that sexual violence and misconduct is not the fault of the person who has experienced it
  - c) helping the individual to identify and/or access available on- or off-campus services
  - d) respecting the individual’s right to choose the services they feel are most appropriate, and to decide whether to report to the police (and/or tribal police)
  - e) recognizing that disclosing can be traumatic and an individual’s ability to recall the events may be limited
  - f) respecting the individual’s choice about how much they disclose about their experience
  - g) making every effort to respect confidentiality and anonymity
  - h) referring to the individual in a manner that is consistent with how they wish to identify themselves, for example “survivor” or “victim.”

#### 4.00 REPORTING SEXUAL VIOLENCE AND MISCONDUCT

- 4.1 The College respects the rights of the individual who has experienced sexual violence and/or misconduct to choose services and supports they feel are most appropriate, and to decide whether to report to the police or to file a formal report with the College. This includes respecting the individual's right not to report.
- 4.2 **Disclosure:** A disclosure is not a formal report and will not trigger an investigation unless the College becomes aware of a risk to other members of the College Community or the conduct otherwise requires and investigation under applicable law.
- 4.3 **Formal Report:** Formal reports may be made anonymously, and the victim/survivor may choose not to participate in the investigation process; however, this may limit the ability of the College to respond and investigate.
- a) There is no time limit to making a formal report; however, the College encourages individuals to make a formal report as soon as they can do so, recognizing that resolution may be more challenging the longer the time between an incident and a formal report.
  - b) This policy does not preclude individuals from filing a complaint in other venues such as under the grievance process of an applicable collective agreement or filing a complaint of harassment or discrimination with an appropriate tribunal, or in a court of law. Such other venues or processes may impose time limits for filing a complaint.
  - c) The priority in responding to a disclosure or formal report will be providing support and ensuring an appropriate process for those affected. Concerns about potential violations of the College's alcohol, cannabis, smoking, student housing, or student non-academic conduct policies, should not prevent reporting or disclosure of an incident of sexual violence and misconduct.
  - d) If the appropriate office determines that the events outlined in the complaint, if true, would not result in a breach of College policy, the appropriate office will notify the victim/survivor that the complaint will not be investigated pursuant to the *Sexual Violence AND Misconduct Policy* and may refer the victim/survivor to other relevant resources.
- 4.4 **Report to the Police:** At any time, persons who have experienced sexual violence and misconduct may choose to report the incident to the police as a criminal matter. A report process can be initiated by contacting the RCMP.
- a) A member of the Student Services Team can assist and support with the contact and with generating a report to the police.
  - b) Additionally, Campus Security on the Terrace campus (weekdays and Saturday 5:00 pm - 2:00 am/Sunday 10:00 am – 2:00 am) is available to assist.
- 4.5 **Third Party Report to Police:** A third-party report is an option if an individual wishes to report to the police but remain anonymous. Support is available through a community-based victim support worker (see Appendix B).

#### 5.00 SUPPORT AND ASSISTANCE – INTERIM MEASURES

- 5.1 When the College receives a disclosure or formal report of sexual violence and misconduct, the College may impose interim measures, as appropriate, to keep individuals and the College Community safe.

- 5.2 Interim measures may include, but are not limited to:
- a) providing academic support to anyone involved in the incident
  - b) altering the academic schedule of any student involved in a complaint of sexual violence and misconduct
  - c) making a no-contact arrangement
  - d) Imposing a temporary, non-disciplinary, leave for a person alleged to have committed sexual violence and misconduct
  - e) any other interim measures determined by the College to be necessary in maintaining a safe environment.

#### 6.00 CONFIDENTIALITY

- 6.1 The College is committed to minimizing the risk of re-traumatizing victims/survivors while ensuring due process. Reasonable efforts shall be made to avoid breaching the privacy of anyone who reports or is involved in a disclosure or formal report.
- 6.2 Confidentiality cannot be assured if:
- a) an individual is at imminent risk of self-harm
  - b) an individual is at imminent risk of harming another
  - c) reporting or action is required by law, or
  - d) evidence of the reported sexual misconduct and violence is available in the public domain.
- 6.3 The names of any individuals involved in a disclosure or formal report will not be disclosed by the College to any person except where disclosure is necessary for the purposes of determining interim measures or resolving the formal report and taking any related disciplinary measures.

#### 7.00 PROTECTION FROM RETALIATION AND/OR REPRISALS

- 7.1 No person may retaliate, engage in reprisals, or threaten to retaliate against a person who has invoked the sexual violence and misconduct policy or someone who is associated with someone who invokes this policy.
- 7.2 Retaliation includes, but is not limited to:
- a) threatening or in any way harassing a person such that it affects their safety, mental health, ability to seek support or other services, make a report or disclose sexual violence, participate in an investigation, or otherwise engage in procedures related to this policy.
  - b) breaching the confidentiality (Section 6.00) of anyone involved in an investigation related to the *Sexual Violence and Misconduct Policy*.
- 7.3 Anyone engaged in retaliation and/or reprisals may be subject to sanctions and/or discipline.

#### 8.00 COLLEGE PROCEDURES FOR FORMAL REPORTS

- 8.1 Principles governing the investigative process include the timeliness and transparency of the process, support for the parties involved, and procedural fairness.

- 8.2 **Timeliness of the process** – all efforts will be made to expedite the process without compromising appropriate procedural fairness for all parties.
- 8.3 **Transparency of the process:**
- a) Parties will be advised of their rights and responsibilities related to the process.
  - b) Parties will know what to expect from the process.
  - c) Parties will be kept informed about the process and outcome.
  - d) Parties will receive regular updates on the progress of their case, estimated timeframes, and any delays related to resolution of their case.
  - e) Reasons will be provided for any decision made throughout the process.
- 8.4 **Support for parties in the process:**
- a) Both parties to a formal report will be offered access to a support person and referral to support resources. For employees, this could include a union representative, where permitted or required under any relevant collective agreement.
  - b) Complainants and Respondents also have the right to identify an alternative support person or representative of their choosing to accompany them to any meetings or proceedings related to the handling of their case. Support persons may include a friend, family member, employee union representative, legal representative, or colleague.
- 8.5 **Procedural fairness:**
- a) The College will follow principles of procedural fairness in its application of this policy.
    - i. For the purposes of this policy, procedural fairness requires that both the Complainant and Respondent in an investigation and adjudication are afforded fairness in the process, including the opportunity to present evidence, to be interviewed, to offer witnesses, and have questions asked of the other party by the investigator.
    - ii. Procedural fairness is essential to ensure that the process is transparent to the Complainant and the Respondent and that both parties' rights are respected.
  - b) The Dean of Student Success receives and reviews all complaints involving students.
  - c) The Director, Human Resources receives and reviews all complaints involving employees.
  - d) Should there be any potential conflict of interest involving the Dean of Student Success or the Director of Human Resources, the complaints will be directed to the one-up position within the College.
  - e) Complaints are reviewed in consultation with the appropriate Vice-President to ensure that they conform to the definition of a complaint in the *Sexual Violence and Misconduct Policy*.

## 9.00 INVESTIGATION OF A FORMAL REPORT

- 9.1 When the Complainant wishes to proceed with filing a formal report, a College investigator or an outside trauma-informed consultant will be appointed by the Director, Human Resources or Dean of Student Success.

- 9.2 The investigation of formal reports must appropriately protect the rights of both the Complainant and the Respondent.
- 9.3 An Investigation of a formal report usually includes:
- a) interview(s) with the Complainant
  - b) interview(s) with the Respondent
  - c) interview(s) with witnesses and potential witnesses
  - d) collection and review of evidence
  - e) findings of fact made on balance of probabilities.
- 9.4 An individual who files a formal report may choose not to participate in an investigation or proceeding under the *Sexual Violence and Misconduct Policy*. This will not prevent the investigation or proceedings from going ahead, but lack of participation may limit the College's ability to reach a finding and issue discipline and/or corrective action.
- 9.5 An individual named in the complaint to have engaged in actions that violate the *Sexual and Misconduct Policy* (i.e., the "Respondent") may choose not to participate in an investigation under this policy.
- a) The investigator is required to give the Respondent notice that if they refuse to participate, the College may be forced to make a finding without the Respondent's participation.
  - b) An investigator can give the Respondent notice that the College will take a negative inference from the Respondent's failure to participate and/or answer a question during the investigation.
- 9.6 Any individual impacted by sexual misconduct and violence who is represented by a union or association, has the right to seek the assistance of that union or association.

#### 10.00 OUTCOME OF A FORMAL COMPLAINT

- 10.1 If a Complainant, in good faith, makes a formal report and the investigator determines that the allegations in the formal report are not substantiated, no record of the formal report or the investigator's report will be placed in the Complainant's or Respondent's student or Human Resources file; however, the College will retain a record in compliance with the College's legal obligation.
- 10.2 An individual who is found to have breached the *Sexual Violence and Misconduct Policy* may be subject to disciplinary action up to and including termination of employment, expulsion from the College, or termination of any other relationship they have with the College.
- 10.3 An individual who is found to have acted in retaliation and/or reprisal may be subject to disciplinary action up to and including termination of employment, expulsion from the College, or termination of any other relationship they have with the College.
- 10.4 Both the Complainant and Respondent will receive a written decision. The Complainant and the Respondent have the right to know the outcome of an investigation. Both the Complainant and Respondent will receive a written decision.

11.00 SUSPENSION

- 11.1 If the Dean of Student Success determines that suspension is the appropriate sanction, the Dean will inform the President in writing, including the reasons for the determination.
- 11.2 If the President agrees that suspension is the appropriate sanction, the President shall impose the sanction.
- 11.3 If the President does not agree that suspension is appropriate, the President will refer the matter back to the Dean (or Delegate).

12.00 RETURN FOLLOWING SUSPENSION

- 12.1 A student who has been suspended from the College is required to meet with the Dean of Student Success prior to registration to review the College's expectations regarding student behaviour.

13.00 APPEALS

- 13.1 An employee may appeal a ruling of discipline using the applicable procedures.
- 13.2 A student may appeal a suspension or expulsion as provided under the *BC College and Institute Act*.
- 13.3 To appeal a sanction, a student must make an application to appeal showing that one or more of the following grounds have been met:
  - a) relevant evidence has become available that was not available at the time of the original decision and there is a strong probability that the evidence would have a significant effect on the decision, or
  - b) the severity of the sanction is disproportionate to the nature of the violation, or
  - c) the student was denied:
    - i. an opportunity to know the case against him/her/them, or
    - ii. an opportunity to respond to the case against him/her/them, or
    - iii. an unbiased decision.
- 13.4 An application to appeal must:
  - a) identify the grounds for the appeal
  - b) include a copy of the original decision
  - c) set out the requested outcome.
- 13.5 Appeal meeting:
  - a) If a student is requested to attend a meeting about an appeal, the student may be accompanied by a support person who is a member of the College Community, providing the support person has had no prior involvement in the matter under appeal.
  - b) Attendance at an appeal meeting by any other person shall be at the discretion of the entity hearing the appeal.
  - c) If a student does not attend a meeting when requested to do so, the matter will be decided based upon the available information.

#### 14.00 APPEAL OF SANCTIONS OTHER THAN SUSPENSION

- 14.1 A student must submit an application to appeal to the office of the Vice-President, Education, Student, and International within seven days of receiving the sanction decision.
- 14.2 Within 14 days of receiving the application, the Vice-President may:
- a) request a meeting with the student before making a decision
  - b) request additional information from internal or external sources
    - i. If such information is provided, the student will be given an opportunity to respond to that information; or
  - c) make a decision based on the written application.
- 14.3 In response to the appeal, the Vice-President may:
- a) deny the appeal because it does not meet the required grounds
  - b) deny the appeal and uphold the sanction, or
  - c) grant the appeal, remove the sanction, and impose a different sanction.
- 14.4 The Vice-President will notify the student in writing of the outcome of the appeal. No further appeal is allowed.

#### 15.00 APPEAL OF SUSPENSION

- 15.1 A student may appeal a suspension by submitting an application to appeal to the Board of Governors.
- 15.2 Within 21 calendar days of receiving the application, a designated member or members of the Board may:
- a) request a meeting with the student before making a decision
  - b) request additional information from internal or external sources
    - i. Should such additional information be provided, the student will be given an opportunity to respond to that information; or
  - c) make a decision based on the written application.
- 15.3 In response to an appeal, the designated member or members of the Board may:
- a) deny the appeal because it does not meet the required grounds
  - b) deny the appeal and uphold the suspension
  - c) grant the appeal and remove the suspension, or
  - d) grant the appeal, remove the suspension, and impose a different sanction.
- 15.4 The designated member or members of the Board will notify the student in writing of the outcome of the appeal.

#### 16.00 POWERS OF THE PRESIDENT

- 16.1 Nothing in this policy interferes with the authority of the President under the *BC College and Institute Act*.



17.00 RECORD RETENTION

- 17.1 The Director, Human Resources (employee-related) or Dean of Student Success (student-related) is responsible for maintaining records.
- 17.2 A copy of the corrective or disciplinary action will be placed on the employee’s personnel file or student’s file with the Registrar’s Office.

18.00 REVIEW

- 18.1 This policy will be reviewed at a minimum of every three years. The review process will include consultation with students and a cross-section of representatives of the College Community.

19.00 RELATED POLICIES, PROCEDURES, AND SUPPORTING DOCUMENTS

19.1 College policies:

- a) ADM-003, [Freedom of Information and Protection of Privacy](#)
- b) [ADM-009, Non-Academic Student Conduct Policy](#)
- c) EDU-007, [Sexual Violence and Misconduct Policy](#)
- d) EDU-015, [Student Complaints Referral Policy](#)
- e) HMR-001, [Employee Code of Conduct](#)
- f) HMR-003, [Bullying, Harassment and Discrimination](#)

19.2 Legislation:

- a) [College and Institute Act](#), RSBC 1996, c52
- b) [Freedom of Information and Protection of Privacy Act](#), RSBC 1996, c165
- c) [Human Rights Code](#), RSBC 1996, c210
- d) [Sexual Violence and Misconduct Policy Act](#), SBC 2016, c23
- e) [Workers Compensation Act](#), RSBC 1996, C492

20.00 HISTORY

Created/Revised/Reviewed	Date	Author’s Name and Role	Approved By
Created	June 6, 2021	Patricia Pryce, Dean of Student Success	President’s Council

## **Appendix A: Steps to Consider Following an Incident**

If you have experienced sexual violence and/or misconduct, please consider the following steps immediately:

1. Seek help. Go to a safe place such as a shelter or a trusted friend's house and/or call 9-1-1. If on a College campus connect with a College employee for help. If online, connect with [Safety & Security](#) on the CMTN website for emergency contact numbers OR refer to Appendix B.
2. Consider seeking medical attention from a physician, or a local hospital or clinic as soon as possible. Treatment is offered free of charge and a personal health number is not required. Hospital treatment can be received regardless of intent to file a police report. Support is available both from the College and through community-based victim services. (See Appendix B.)
3. Consider options for reporting.

**Appendix B: Community Resources**

Location	Organization	Contact	Website	Service
Masset Haida Gwaii	Society for Community Peace	(250) 626-6049	<a href="http://www.hgpeace.ca/">http://www.hgpeace.ca/</a>	Support for survivors of violence/abuse, trauma, mental health, and addictions
Queen Charlotte City	Islands Wellness Society	(250) 559-8828	<a href="http://islandswellnessociety.com/society-info/">http://islandswellnessociety.com/society-info/</a>	Community-based supports (food bank, victim services, equity, counselling)
Prince Rupert	North Coast Transition Society	(250) 627-8959	<a href="http://www.northccs.com/">http://www.northccs.com/</a>	Shelter for adults
	North Coast Community Services	(250) 627-7166	<a href="https://www.northccs.com/">https://www.northccs.com/</a>	Deliver programs supporting social improvement
	RCMP Victim Services	(250) 627-7779	<a href="https://alpha.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-a-victim-of-a-crime/victim-of-crime/victim-services-directory/vs-prince-rupert-rcmp">https://alpha.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-a-victim-of-a-crime/victim-of-crime/victim-services-directory/vs-prince-rupert-rcmp</a>	Support in understanding criminal justice, victim supports, witness information
Terrace	Ksan House Society	(250) 635-2373	<a href="http://ksansociety.ca/">http://ksansociety.ca/</a>	Public education, shelter, social programs
	RCMP Victim Services	(250) 638-7411	<a href="https://alpha.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-a-victim-of-a-crime/victim-of-crime/victim-services-directory/vs-terrace-rcmp">https://alpha.gov.bc.ca/gov/content/justice/criminal-justice/bcs-criminal-justice-system/if-you-are-a-victim-of-a-crime/victim-of-crime/victim-services-directory/vs-terrace-rcmp</a>	Support in understanding criminal justice, victim supports, witness information
Kitimat	Tamitik Status of Women Association	(250) 632-8787	<a href="http://www.tamitik.ca/">http://www.tamitik.ca/</a>	Services that address violence toward women and children, employment, literacy, language and immigrant support
	Kitimat Community Services	(250) 639-2122	<a href="https://kitimatcommunityservices.ca/services/kitimat-rcmp-victim-services/">https://kitimatcommunityservices.ca/services/kitimat-rcmp-victim-services/</a>	
	RCMP Victim Services	(250) 632-2326		
Smithers	Northern Society for Domestic Peace	(250) 847-9000	<a href="http://domesticpeace.ca/">http://domesticpeace.ca/</a>	Crisis support, counselling, outreach, advocacy, education
	RCMP Victim Services	(250) 847-9374		
Hazelton	Northern Society for Domestic Peace	(778) 210-0283	<a href="http://domesticpeace.ca/">http://domesticpeace.ca/</a>	Crisis support, counselling, outreach, advocacy, education
Houston	Northern Society for Domestic Peace	(250) 845-3212	<a href="http://domesticpeace.ca/">http://domesticpeace.ca/</a>	Crisis support, counselling, outreach, advocacy, education
	RCMP Victim Services	(250) 845-3699		

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Location	Organization	Contact	Website	Service
British Columbia	VictimLink	Call or Text 1-800-563-0808	<a href="mailto:VictimLinkBC@bc211.ca">VictimLinkBC@bc211.ca</a> <a href="https://www2.gov.bc.ca/gov/content/justice/criminal-justice/victims-of-crime/victimlinkbc">https://www2.gov.bc.ca/gov/content/justice/criminal-justice/victims-of-crime/victimlinkbc</a>	Multilingual, confidential information and referral service for victims of crime. Immediate crisis support to victims of family and sexual violence.