



Title	Sexual Violence and Misconduct Policy – Students and Employees
Policy Area	Operations – Human Resources
Policy Number	E.2.16
See also <i>(related policies and documents)</i>	Discrimination, Bullying and Harassment Policy Violent and Threatening Behaviour Policy Student Non-Academic Conduct Policy Code of Ethical Practices Policy Use of Information Technology Resources Policy Social Media Policy Collective Agreements

Effective Date of Policy:	June 29, 2016
Approval Date:	June 28, 2016
Applies to:	Students, Employees, Members of the Board of Governors
Approving Body:	Board of Governors
New:	New Policy
Authority:	<i>College and Institute Act</i> <i>Sexual Violence and Misconduct Policy Act</i>

The following is responsible for the administration of this policy:

Primary Office	Contact
Student Services	Vice President, Students

Policy Statement

- 1.1 The College is committed to creating and maintaining a learning and working environment characterized by mutual respect, safety, civility and free inquiry. Safety at the College is a priority and any form of sexual misconduct will not be tolerated. The College will address sexual misconduct in the College community through support, awareness, training and prevention programs, and appropriate handling of complaints and disclosure of sexual misconduct. Those who have experienced sexual misconduct will be treated with compassion, dignity and respect.

Purpose

- 2.1 The purpose of this policy is to clearly state the College's commitment to addressing sexual misconduct through:
- a) creating an atmosphere in which sexual misconduct is not tolerated;
 - b) providing education to the College Community about prevention of sexual misconduct;
 - c) assisting those who have experienced sexual misconduct by providing information and support, including provision of and/or referral to counseling and medical care, and appropriate academic and/or other accommodation; and
 - d) using clear, appropriate and fair processes for handling complaints of sexual misconduct.

See the following link for internal and external resources to assist those who have experienced sexual misconduct:

http://www.okanagan.bc.ca/Campus_and_Community/Safety_Security.html

A complaint of sexual misconduct does not have to be filed to obtain these supports.

Scope and Application

- 3.1 This policy applies to students, employees and members of the Board of Governors of the College in a College-related activity.
- 3.2 Procedures under the College's *Discrimination, Bullying and Harassment Policy* will govern the investigation and/or resolution process for this policy.
- 3.3 This policy is not intended to supersede or interfere with collective agreements or with prevailing laws.
- 3.4 Anyone who has experienced sexual misconduct has the right to pursue criminal or civil legal avenues whether or not they choose to proceed under this policy.

- 3.5 All processes must follow the principles of natural justice and must appropriately protect the rights of both the person making a complaint and the person accused.

Definitions

- 4.1 **College-related activity** includes an activity conducted under the authority of the College at any location. The conduct in question must have a real and substantial connection to the College, College activities or College-related functions, whether or not the conduct occurred on College property.
- 4.2 **College Community** means students, employees and members of the Board of Governors of the College.
- 4.3 **Complaint** or a report (“complaint”) is a statement of facts including a record of the dates, times, nature of any incidents and names of witnesses. The complaint must contain sufficient detail to allow the College to assess the complaint and conduct an investigation if required. A complaint can be made by a person who has experienced sexual misconduct or who has been a witness to sexual misconduct.
- 4.4 **Consent** means an active, direct, voluntary, un-coerced, ongoing, unimpaired and conscious choice and agreement between adults to engage in sexual activity. Consent can be withdrawn at any point.
- 4.5 **Employee** means any person employed by the College, and includes members of the Board of Governors.
- 4.6 **No-Contact Undertaking** means an agreement, mutually undertaken by two or more people, to refrain from contacting one another based on specified conditions.
- 4.7 **Sexual Misconduct** includes sexual violence and means any sexual act or act targeting a person’s sexuality, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent, and includes without limitation:
- a) sexual assault;
 - b) sexual harassment;
 - c) stalking;
 - d) indecent exposure;
 - e) voyeurism;
 - f) sexual exploitation;
 - g) non-consensual posting of sexually explicit pictures or video with the intent to distress.

Reference to a person applies regardless of gender, sexual orientation or gender identity. Sexual Misconduct can include, but is not limited to:

- a) **Sexual Assault** means any form of sexual contact without consent from all parties, and includes:

- i) acquaintance sexual assault: sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance; and
 - ii) drug-facilitated sexual assault: the use of alcohol and/or drugs by a person to control, overpower or subdue a person for purposes of sexual assault;
- b) **Sexual Harassment** means a course of unwanted remarks, behaviours, or communications of a sexually oriented nature and/or a course of unwanted remarks, behaviours or communications based on gender – where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that these are unwanted. It includes, but is not limited to:
- i) sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);
 - ii) the inappropriate display of sexually suggestive pictures, posters, objects or graffiti;
 - iii) non-consensual posting of sexually explicit pictures or video with the intent to distress the person in the picture or video, aggressive comments and slurs on any form of social media;
 - iv) physical contact of a sexual nature; and
 - v) sexual conduct that interferes with an individual’s dignity or privacy such as voyeurism and exhibitionism;
- c) **Stalking** is a form of criminal harassment involving behaviours that occur on more than one occasion and which collectively instill fear in a person or threaten a person’s safety or mental health. Stalking can also include threats of harm to a person’s friends and/or family. These behaviours include, but are not limited to non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; “creeping” via social media/cyber-stalking; and uttering threats.

4.8 **Student** means any person enrolled as a student at the College.

Procedures

MAKING A COMPLAINT OR DISCLOSURE OF SEXUAL MISCONDUCT

- 5.1 Anyone who experiences or witnesses sexual misconduct, or has reason to believe that sexual misconduct has occurred or may occur, may pursue any of the following options (or pursue more than one option simultaneously):
- a) **Criminal Reporting Option:** individuals may report their allegations through the criminal justice system by contacting the RCMP or local police detachment. If an individual chooses this route, Campus Security can facilitate making a report to the police. The College will cooperate with any criminal investigation.

Contact Campus Security:

http://www.okanagan.bc.ca/Campus_and_Community/employees/Ancillary-Business-Services/Security_and_Crisis_Management.htm

Phone: 250-317-2435

b) **Non-Criminal, On-Campus Complaint Option:** A complaint should be directed as follows:

- i) for students - a counsellor in Student Services, the Director, Student Services, Program Dean or Regional Dean;
- ii) for employees - a supervisor, Human Resources Advisor, Program Dean, Regional Dean or Director; or
- iii) for Board members - the Board Chair or Vice-Chair.

A complaint will initiate an investigation and/or resolution process.

Procedures under the College's *Discrimination, Bullying and Harassment Policy* will govern the investigation and/or resolution process under this policy.

c) **On-Campus Disclosure without a Complaint Option:**

- i) if a student who has experienced sexual misconduct, including sexual misconduct at a non-College related activity, and does not want to report the experience through the criminal justice system, or the College's non-criminal on-campus complaint option, the student has the option of disclosing their experience to a counsellor in Counselling Services to receive support and academic accommodations that may be needed;
- ii) an employee can seek assistance through the College's *Employee and Family Assistance Program* and may seek any necessary accommodations;
- iii) disclosure will not initiate a process to investigate the sexual misconduct or engage any resolution process.

Interim Measures

5.2 Prior to the commencement of an investigation or resolution process, the College may impose interim measures as may be appropriate for safety of the individuals involved, and the College Community, in any complaint of sexual misconduct. Interim measures may include, but are not limited to:

- a) alteration of the academic schedule of any student involved in a complaint of sexual misconduct;
- b) no-contact undertakings or no-contact direction;
- c) temporary, non-disciplinary, leave of a person alleged to have committed sexual misconduct; and
- d) any other interim restrictions as may be determined by the College.

Academic Accommodations

- 5.3 A student who has experienced sexual misconduct, including sexual misconduct at a non-College related activity, and who may require an academic accommodation (for example, exam deferral, an extension on an assignment, withdrawing from a class, changing location of studies to another campus or from home, etc.), will be supported by the Counseling Department and/or the Accessibility Services Office, in accordance with the College procedures for requesting and granting academic accommodations.
- 5.4 A student requesting an academic accommodation under this policy is not required to file a complaint of sexual misconduct to receive an academic accommodation.

Confidentiality

- 6.1 Confidentiality is an important principle in creating an environment where those who have experienced sexual misconduct feel safe to disclose and seek support. The privacy and confidentiality of all members of the College community involved in any complaint of sexual misconduct, will be protected to the extent possible. However, disclosure of information may be made if:
- a) the sharing of personal information is necessary for the protection of health or safety;
 - b) the sharing of personal information is required or authorized by law; or
 - c) the person the information is about has consented to the release of the personal information.

Protection from Retaliation

- 7.1 It is contrary to this policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a person making a complaint, a witness or other individual for:
- a) having pursued options/rights under this policy or any other relevant Provincial or Federal legislation;
 - b) having participated or co-operated in a complaint under this policy; or
 - c) having been associated with someone who has pursued rights under this policy.
- 7.2 Anyone engaged in such conduct may be subject to discipline.

General

- 8.1 This policy will be reviewed at least once every three years.
- 8.2 On an annual basis the President will report to the Board on the implementation of this policy.