



SEXUAL VIOLENCE AND MISCONDUCT POLICY

Policy Area:	Board		
Policy Number:	SVPL_2206R_BG/PVPA		
Policy Sponsor:	Provost and Vice President, Academic		
Policy Contact:	Dean, Students		
Stakeholders:	Students, Employees, Board of Governors		
Authority:	<i>College and Institute Act</i> <i>Sexual Violence and Misconduct Policy Act</i>		
Approval Authority:	Board of Governors		
Approval Date:	June 22, 2022		
Effective Date:	July 1, 2022		
Replaces or New:	Sexual Violence and Misconduct Policy (E3.12)		
Last reviewed:	June 2023	Scheduled review date:	June 2025

Procedures:	<i>Procedures for Complaints or Disclosures of Sexual Violence and Misconduct</i> <i>Procedures for Student Non-Academic Misconduct Conduct Investigations</i> <i>Procedures under Discrimination, Bullying and Harassment Policy (Employees)</i>
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1. Policy Statements

Individuals who have experienced Sexual Violence and Misconduct will be treated with compassion, dignity and respect. The College does not condone or tolerate any form of Sexual Violence or Misconduct and is committed to creating and maintaining a learning and working environment characterized by mutual respect, safety, civility and free inquiry.

While Sexual Violence impacts all members of society, the College acknowledges that its consequences may disproportionately affect members of social groups who experience intersecting forms of systemic discrimination or barriers (on grounds, for example, of gender, sexual orientation, gender identity and expression, race, religion, Indigenous identity, ethnicity, disability or class).

Safety at the College is a priority. The College will address Sexual Violence and Misconduct through support, awareness, training and prevention programs (see *Consent & Sexual Violence Training* [here](#)), and through appropriate handling of Complaints and Disclosures of Sexual Violence and Misconduct.

The College is committed to creating an environment where individuals feel empowered to bring forward Complaints or Disclosures about Sexual Violence and Misconduct. The College seeks to reduce barriers to Disclosures and Complaints and takes a Trauma Informed Approach when

responding to Disclosures/Complaints. Okanagan College will train persons responsible for addressing Sexual Misconduct on Trauma Informed Approaches.

The College recognizes that certain relationships between students and employees are relationships of heightened trust and vulnerability. Sexual or intimate relationships between individuals and employees where there is a supervisory role or where an individual has influence over a student's current or future academic activities, working conditions, or career advancement are considered a conflict of interest under the Employee Standards of Conduct and may be subject to disciplinary action under the *Code of Ethical Practices Policy* (see section 5 – Standards of Conduct).

There is no time limitation for a Student or Employee to bring forward a Complaint or Disclosure under this Policy.

2. Purpose

- 2.1 The purpose of this policy is to clearly state the College's commitment to addressing Sexual Violence and Misconduct by:
- a) Creating a learning and working environment in which Sexual Violence and Misconduct is not tolerated;
 - b) Working with Housing staff to ensure, to the best of our abilities, that the College's Student Housing is a safe living environment;
 - c) Promoting a culture of Consent to prevent Sexual Violence and Misconduct;
 - d) Establishing a fair, supportive and effective response to Complaints and Disclosures of Sexual Violence and Misconduct;
 - e) Providing education to the College community about prevention of Sexual Violence and Misconduct;
 - f) Promoting of a culture of safety, support, and openness that diminishes sexual aggression and survivor blaming;
 - g) Assisting those who have experienced Sexual Violence and Misconduct by providing information and support, including provision of counselling and/or referral to medical care, and appropriate academic and/or other accommodations;
 - h) Defining the roles of individuals responsible for implementing and carrying out the programs and practices outlined in this policy;
 - i) Using clear, appropriate and fair processes for handling Complaints and Disclosures of Sexual Violence and Misconduct.
 - j) Advancing on-campus supports to provide psychological and emotional support, assistance with safety planning and referrals to other services, including medical services;
- 2.2 The following link provides information on the internal and external resources that can assist those who have experienced Sexual Violence and Misconduct:
- <https://www.okanagan.bc.ca/sexual-violence-awareness>.
- A Disclosure or a formal Complaint of Sexual Violence and Misconduct does not have to be made/filed to obtain these supports.

3. Scope and Application

- 3.1 This Policy applies to Students, Employees, members of the Board of Governors, contractors, volunteers and visitors participating in a College-Related Activity.
- 3.2 Procedures under the Student Non-Academic Misconduct Policy will govern the investigation or resolution of a Complaint under this Policy.
- 3.3 This Policy is not intended to supersede or interfere with Collective Agreement provisions or other legal processes.
- 3.4 Anyone who has experienced Sexual Violence and Misconduct has the right to pursue criminal or civil legal avenues whether or not they choose to file a Complaint or make a Disclosure under this Policy.
- 3.5 All processes under this Policy will be undertaken in compliance with principles of Procedural Fairness and will appropriately protect the rights of both the Complainant and the Respondent.
- 3.6 The College recognizes that some individuals may be hesitant to disclose or report Sexual Violence and Misconduct in cases where they have been drinking while underage or using drugs at the time that the offence took place. A Complainant or Okanagan College Community member acting in good faith, who discloses or reports Sexual Violence and Misconduct will not be subject to penalties for violation of any College policies related to drug and alcohol use at the time that the Sexual Violence and Misconduct took place.

4. Definitions

Case Management Group	Means a subgroup of the team designated to assess and respond to violent incidents or threats and consists of the Dean of Students, the Manager, Security & Crisis Management, and one Campus Administrative Manager.
Coercion	Means, in the context of sexual assault/sexual violence, unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.
College Community	Means Students, Employees, members of the Board of Governors of the College, contractors, volunteers and visitors.
College-Related Activity	<p>Means an activity occurring on College property (including in Student housing), at College sanctioned events or conducted under the authority of the College. To be a College-Related Activity the activity must have a real and substantial connection to the College, or College-related functions, whether the activity occurred on College property, in person or online.</p> <p><i>In exceptional circumstances, incidents which do not occur on College property, or at College sanctioned events and are not conducted under the authority of the College may still be found to have a substantial connection to the College where they adversely affect the complainant's course of learning, teaching, or work, and may fall within the scope of this policy.</i></p>

Complainant	Means a person who seeks recourse under this Policy based on a belief that they have witnessed or experienced conduct which is prohibited by this Policy. The College may act as a Complainant in appropriate circumstances.
Complaint	Means a verbal or written statement of alleged facts made by a Complainant seeking recourse under this Policy. A Complaint can be made by a person who has experienced Sexual Violence and Misconduct or who has been a witness to Sexual Violence and Misconduct. A Complainant may use the Complaint Form included with this Policy to file a Complaint. A Complaint may be made anonymously but this may impact on the College's options for addressing the Complaint.
Consent	<p>Means an agreement between individuals that is active, direct, voluntary, un-coerced, ongoing, unimpaired and based on a conscious choice to engage in sexual activity. Consent can be withdrawn at any point.</p> <p>For greater clarity:</p> <ul style="list-style-type: none">a) Consent is active, not passive or silent.b) Consent must be affirmative, ongoing, informed, respectful, and engaged. There is no Consent when a person, by words or conduct, expresses a lack of agreement to engage in the activity.c) Consent can never be assumed or implied. It is the responsibility of the person who wants to engage in physical contact or sexual activity to make sure they have Consent from the other person(s) involved.d) Consent can be withdrawn regardless of whether other sexual activities or previous agreements to sexual activity have taken place.e) Consent only applies to each specific instance of sexual activity.f) Consent to one kind of sexual activity does not mean that Consent is given for another sexual activity.g) Consent cannot be obtained through threats, coercion or other forms of control and intimidation, which includes an abuse of a position of trust, power or authority.h) Consent is not obtained if any individual is:

- i) incapacitated due to consumption of alcohol or drugs; any sexual activity involving alcohol or drug use requires the standard of affirmative Consent; the use of alcohol and/or drugs by an individual never implies Consent and should not be assumed to have played a role in causing a survivor's experience of sexual violence;
 - ii) asleep or unconscious; or
 - iii) under the legal age of Consent as defined in the Canadian *Criminal Code*.
- i) Impaired judgement on the part of the Respondent that leads them to think or believe there was Consent is not an excuse for an act of Sexual Violence or Misconduct.
 - j) A person is incapable of giving Consent to a person in a position of trust, power or authority, such as a faculty member initiating a relationship with a student who they teach, or an administrator in a relationship with anyone who reports to that position.

Disclosure

Means the act of reporting or informing the College about an incident or experience of Sexual Violence and Misconduct, whether or not that individual chooses to make a Complaint or take other action. A Disclosure can be made for the purposes of obtaining support and services and/or learning about options to make a formal Complaint.

Employee

Means any person employed by (or who has an appointment with) the College.
For the purposes of this policy, Employee includes members of the Board of Governors.

No-Contact Directive

Means a directive from the College to a person to refrain from contacting or interacting with another person, or any other directive as may be determined by the College.

No-Contact Undertaking

Means an agreement, mutually undertaken by two or more people, to refrain from contacting or interacting with one another based on specified conditions.

Procedural Fairness

Means the fairness of the process by which a decision is made under this Policy. It includes but is not limited to the right of the Respondent:

- a) To be notified of the Complaint;
- b) To know the substance of the Complaint;
- c) To have the opportunity to respond to the Complaint; and
- d) To have a decision made by an impartial decision maker.

REES

Means a secure online platform for reporting sexual harassment, misconduct and assault and is located at www.reescommunity.com.

Representative	Means an appropriate person whom Complainants and Respondents may engage to assist them throughout the process of filing or responding to a complaint. An appropriate Representative may be a student representative from the OCSU or VSAOC, an Employee of the institution, a union steward for Employees, or an outside Representative of the individual's choice.
Respondent	Means the person accused of Sexual Violence or Misconduct.
Retaliation	Means any adverse action or threatened action taken, or made, through any means, including through social or other electronic media, against a person who engages with this policy or against a person associated with anyone who engages with this policy. Retaliation includes but is not limited to threatening, intimidating, or harassing conduct that could discourage a person from seeking support or other services, disclosing or reporting Sexual Violence or Misconduct, participating in an investigation, or otherwise engaging with this policy.
Sexual Violence and Misconduct	<p>Means any contact or conduct of a sexual nature or act targeting a person's sexuality, gender identity or gender expression whether the act or contact/conduct is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's Consent, and includes without limitation:</p> <ul style="list-style-type: none">a) Sexual Assault;b) Sexual Harassment;c) Stalking;d) indecent exposure;e) voyeurism;f) sexual exploitation; andg) non-consensual distribution/posting of sexually explicit images of a person to one or more persons.
Sexual Assault	<p>Means any contact of a sexual nature undertaken without Consent from all participants. Sexual assault can be committed by a partner, friend or acquaintance, a person in a position of authority or a stranger. It may occur between individuals regardless of sexual orientation, gender, gender identity or relationship. Sexual assault can include:</p> <ul style="list-style-type: none">a) a range of non-consensual sexual activities, including sexual touching, kissing, oral sex, or vaginal/anal penetration;b) sexual contact that is forced, manipulated or coerced.c) when an individual engages in sexual activity with another person they know or ought reasonably to have known is mentally or physically incapable of giving or refusing Consent, such as when a person is unconscious, blacked out, intoxicated through the use of alcohol or drugs or otherwise incapable due to a mental or physical disability;

- d) drug-facilitated sexual assault where the use of alcohol and/or drugs by a person to control, overpower, or subdue a person for sexual purposes; and,
- e) stealthing, which is the act of removing any protective barrier (i.e. condom, latex dam) during sex without the Consent of the partner.

Sexual Harassment

Means unwelcome conduct of a sexual nature, including conduct of a verbal, physical or non-verbal nature, based on sex, sexual orientation, gender identity, or gender expression, where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that such conduct is unwelcome and the conduct has the effect of creating an intimidating, hostile or offensive learning or working environment or otherwise interferes with a person's educational or work performance . It includes, but is not limited to:

- a) when submission to, or tolerance of, sexualized conduct is made as a term or condition of educational or employment progress; or as the basis for an educational decision or an employment decision;
- b) sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);
- c) the inappropriate display of sexually suggestive pictures, posters, objects or graffiti;
- d) non-consensual distribution/posting of sexually explicit images of a person to one or more persons;
- e) aggressive comments and slurs on any form of social media;
- f) physical contact of a sexual nature; and
- g) sexual conduct that interferes with an individual's dignity or privacy such as voyeurism and exhibitionism.

Stalking

Means conduct that causes an individual to reasonably fear for their physical or mental safety. Stalking behaviours may include, but are not limited to: non-consensual communications (face to face, phone, email, social media), threatening and obscene gestures, surveillance, sending repetitive unwanted gifts and uttering threats. Examples of stalking include:

- a) repeatedly following a person or someone known to them;
- b) repeatedly communicating with a person or someone known to them;
- c) besetting or watching a person's home, or place where the person, or someone known to them, resides, works, carries on business or happens to be; or
- d) engaging in threatening conduct toward another person or a member of their family.

Student

Means any person enrolled as a Student at Okanagan College.

Trauma Informed Approach

Means understanding the impacts of sexual misconduct and sexualized violence on individuals and responding in a manner that promotes empowerment and recovery and minimizes re-traumatization.

5. Confidentiality

- 5.1 Personal information, whether oral or written, which is collected, received, or compiled from a Complaint and through the course of an investigation and resolution process will be treated as confidential by the College in accordance with privacy legislation.
- 5.2 All individuals involved in the Complaint resolution and investigation process must keep confidential all information received about the Complaint, except as expressly set out in this Policy, or as required by law.
- 5.3 Where reasonably necessary and as applicable, Associate Vice President, People Services, Dean of Students, or investigator may disclose such information to the appropriate individuals in order to:
 - a) protect health and safety;
 - b) administer the Policy and appropriately address the Complaint in accordance with the Policy;
 - c) ensure a full and fair investigation into the Complaint;
 - d) implement corrective measures;
 - e) obtain legal advice; or
 - f) inform law enforcement of reasonably suspected criminal activity or serious risk of bodily harm to an individual in keeping with privacy legislation.

6. Prohibited Conduct

- 6.1 Sexual Violence, Sexual Harassment, and Sexual Assault within the scope of this Policy are strictly prohibited.
- 6.2 It is contrary to this Policy for anyone to retaliate, engage in reprisals, or threaten to retaliate against a person in connection with:
 - a) making a report of Sexual Violence and Misconduct;
 - b) filing a Complaint;
 - c) making a Disclosure;
 - d) participating in an investigation or resolution process under this Policy; or
 - e) accessing any other remedy available under this Policy.

7. Roles and Responsibilities of the College Community

- 7.1 While everyone on campus has a role to play in responding to incidents of Sexual Violence and Misconduct, some campus members will have specific responsibilities which might include:
- a) Provision of awareness and prevention strategies related to Sexual Assault/Sexual Violence and promotion of a culture of safety, support and openness that diminishes sexual aggression and survivor blaming;
 - b) On-campus supports to provide psychological and emotional support, assistance with safety planning and referrals to other services, including medical services;
 - c) Interim Measures (temporary measures or restrictions before an investigation or resolution process is commenced or concluded) implemented by the College, as may be appropriate for safety of the individuals involved and the College community – see *Procedures for Student Non-Academic Conduct Investigations: Initial Review of Complaint (section 3.5)*.
 - d) The responsibility of faculty, staff and administrators to facilitate academic accommodations and other needs of those who have been affected by Sexual Violence and Misconduct, e.g., extensions on assignments, continuing studies from home, and dropping courses;
 - e) The responsibility of student housing staff to facilitate safe living arrangements to the best of our abilities;
 - f) The responsibility of People Services to assist with investigations and gathering of evidence with any incidents of allegations of sexual misconduct involving Employees; and,
 - g) The responsibility of Student Services to assist with investigations and gathering evidence, to implement measures to reduce sexual assault/sexual violence on campus, and to collaborate with local police where appropriate.

8. Academic Accommodations

- 8.3 A Student who has experienced Sexual Violence and Misconduct may require an academic accommodation (for example, exam deferral, an extension on an assignment, withdrawal from a class, relocation of studies to another campus or from home, etc.).
- 8.4 Accommodations will be supported by a student services professional in consultation with the student, with the student's consent and whenever possible by the individual who receives the disclosure. Accommodations are individual and determined by the student's specific needs. Students are not required to file a Complaint of Sexual Violence and Misconduct to be considered for an academic accommodation.

9. Procedure

Disclosures or Complaints – how to report an incident

- 9.1 The College encourages all Students and Employees to report Sexual Violence and Misconduct so that it can be addressed.
- 9.2 Click [here](#) for the reporting options available to anyone who has experienced or witnessed sexual violence.

Investigations – how the College will respond to a complaint

- 9.3 The College will investigate all Complaints through a neutral impartial process.
- 9.4 When the Respondent is an employee, the procedures under the College's *Employee Discrimination, Bullying and Harassment Policy* will govern the investigation and/or resolution process. The College will ensure that the investigator appointed is familiar with this policy.
- 9.5 When the Respondent is a student, the procedures under the College's *Procedures for Student Non-Academic Conduct Investigations: Process for a Major Infraction (section 3.10)* will govern the investigation and/or resolution process. The College will ensure that the investigator appointed is familiar with this policy.
- 9.6 The College reserves the right to specify alternate processes for the handling of a complaint lodged by a member of the College Community who is not a Student, Employee or member of the Board of Governors.
- 9.7 The College may implement temporary measures or restrictions before an investigation or resolution process is commenced or concluded as may be appropriate for safety of the individuals involved and the College community (see *Procedures for Student Non-Academic Conduct Investigations: Initial Review of Complaint (section 3.5)*).

10. Review and Reporting

- 10.1 This Policy will be reviewed at least once every three years.
- 10.2 On an annual basis the President will report to the Board on the implementation of this Policy.
- 10.3 The College reserves the right to determine the appropriate College policy, processes and procedures to follow to address a Complaint or initiate an investigation.

11. Related Acts and Regulations

Workers Compensation Act (BC)
Occupational Health and Safety Regulations

12. Supporting References, Policies, Procedures and Forms

Code of Ethical Practices Policy
Employee Discrimination, Bullying and Harassment Policy
Health and Safety Policy
Safe Disclosure Policy
Social Media Policy and *Guidelines for Use of Social Media*
Student Non-Academic Misconduct Policy
Use of Information Technology Resources Policy
Violent and Threatening Behaviour Policy

History / Revisions

<i>Date</i>	<i>Action</i>
2023-08-15	<i>Non-substantive update: job titles of Leadership Council and administrators.</i>
2022-06-22	<i>Approved by the Board of Governors: Sexual Violence and Misconduct Policy</i>