

Policy Name:	SEXUAL VIOLENCE & MISCONDUCT	 <p>coast mountain college</p>
Approved By:	President's Council	
Approval Date:	May 2, 2017	
Amendment Date:	N/A	
Policy Holders:	Student Services & Human Resources	
Policy Number:	EDU-007	
Category:	Education & Human Resources	

SEXUAL VIOLENCE & MISCONDUCT

1.00 PURPOSE

The purpose of this policy is to clearly state the College's commitment to addressing sexual violence and/or misconduct through:

- 1.01 creating a culture in which sexual violence and/or misconduct is not tolerated;
- 1.02 providing education to the College Community about prevention of sexual violence and/or misconduct;
- 1.03 assisting those who have experienced sexual violence and/or misconduct by providing information and support, including provision of and/or referral to counselling and medical care, and appropriate academic and/or other accommodation; and
- 1.04 using clear, appropriate and fair processes for handling complaints of sexual violence and/or misconduct.

2.00 PURPOSE

- 2.01 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 violence and/or misconduct will not be tolerated.
- 2.02 The College will address sexual violence and/or misconduct in the College community through support, awareness, training and prevention programs, and appropriate handling of complaints and disclosures. Those who have experienced sexual violence and/or misconduct will be treated with compassion, dignity, and respect.

3.00 STANDARD OF PROOF

The standard of proof for all allegations under this policy is based upon the balance of probabilities or proof on a preponderance of the evidence.

4.00 SCOPE & APPLICATION

4.01 This policy applies to applicants, students, employees, contractors, volunteers, visitors and members of the Board of Governors of the College engaged in College-related activities.

4.02 In the case of students who are enrolled at the College as a result of a partnership agreement, College policy will supersede.

4.03 This policy is not intended to supersede or interfere with collective agreements or with prevailing laws.

4.04 Anyone who has experienced sexual violence and/or misconduct has the right to pursue criminal or civil legal avenues whether or not they choose to proceed under this policy

4.05 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.

5.00 DEFINITIONS

5.01 **College-Related Activity:** any activity occurring on College grounds or as part of an educational program or administrative action and including online or distance education, practicum, field education, off-site training, or work terms required by a program of study at the College and; College-endorsed activities and events.

5.02 **College Community:** applicants, students, employees, contractors, volunteers, visitors, and members of the Board of Governors of the College.

5.03 **Complaint:** 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.

5.04 **Consent:** 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.

- 5.05 **Disclosure:** a report of sexual violence and/or misconduct where the victim/survivor chooses not to proceed with formal process such as Police Reporting or On-Campus Complaint but may, instead, seek support, resources, and/or accommodations.
- 5.06 **Employee:** any person employed by the College, including members of the Board of Governors.
- 5.07 **No-Contact Undertaking:** an agreement undertaken by the College to refrain two or more people from contacting one another based on specified conditions.
- 5.08 **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:

- sexual assault;
- sexual harassment;
- stalking;
- indecent exposure;
- voyeurism;
- sexual exploitation;
- non-consensual posting of sexually explicit pictures or videos with the intent to distress.

Reference to a person applies regardless of gender expression, sexual orientation, or gender identity. Sexual violence and/or misconduct can include, but is not limited to:

5.08.1 **Sexual Assault:** any form of unwelcome activity of a sexual nature imposed by one person (or more) on another without consent, including:

- 5.08.1.1 a range of unwelcome sexual activities including oral contact (kissing), groping, touching, oral sex, vaginal or anal penetration, and/or other forms of penetration;
- 5.08.1.2 acquaintance sexual assault: sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance; and

5.08.1.3 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.

5.08.2 **Sexual Harassment:** a course of unwanted remarks, behaviours, or communications of a sexually orientated 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:

5.08.2.1 sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);

5.08.2.2 the inappropriate display of sexually suggestive pictures, posters, objects or graffiti;

5.08.2.3 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;

5.08.2.4 physical contact of a sexual nature; and

5.08.2.5 sexual conduct that interferes with an individual's dignity or privacy such as voyeurism and exhibitionism.

5.08.3 **Stalking:** a form of criminal harassment involving behavior that occurs 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 nonconsensual communication (face-to-face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; "creeping" via social media/cyberstalking; and uttering threats.

5.09 **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 including individuals who are registered in a course or program as a result of a partnership (e.g. dual credit or dual admission).

Procedure Name:	SEXUAL VIOLENCE & MISCONDUCT RESPONSE PROCEDURES
Approval Date:	May 2, 2017
Procedure Holders:	Student Services & Human Resources
Procedure Number:	EDU-007-Appendix 1



SEXUAL VIOLENCE & MISCONDUCT RESPONSE PROCEDURES

1.00 SUPPORT FOR VICTIMS

All complaints and/or reports under this policy will be directed to community-based victim services for emotional support and guidance throughout the complaint or disclosure process.

2.00 REPORTING OPTIONS

Anyone who experiences or witnesses sexual violence and/or misconduct, or has reason to believe that sexual violence and/or misconduct has occurred or may occur, may pursue any of the following options (or pursue more than one option simultaneously):

2.01 **Police Reporting Option:** individuals may report through the criminal justice system by contacting the RCMP or local police detachment. If an individual chooses this route, Campus Security and/or Student Services can facilitate making a report to the police. The College will cooperate with any criminal investigation.

2.02 **On-Campus Complaint Option:** a complaint should be directed as follows:

2.02.1 For Students - a member of the Student Services team, the Director of Student Development, Dean, or Regional Director;

2.02.2 For Employees - a Supervisor, Human Resources Advisor, Dean, or Regional Director; or

2.02.3 For Board Members - the Board Chair or Vice-Chair.

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

2.03 **On-Campus Disclosure without a Complaint Option:**

2.03.1 If a student has experienced sexual violence and/or misconduct, including sexual violence and/or misconduct at a non-College related activity, and does not want to report the experience through the criminal justice system, or the College's on-campus complaint option, the student has the option of disclosing their experience to a Student Services team member to receive support and academic accommodations that may be needed.

2.03.2 An employee can seek assistance through the College's Employee Assistance Program (EAP) and may seek any necessary accommodations.

2.04 **Third Party Report to Police via Community Victim Service Agency:** The victim/survivor makes an anonymous report to police through a community-based victim support worker:

2.04.1 Reports are sent to police by an intermediary agency and provide detailed information about the incident and the perpetrator, but do not include the name or contact information of the victim/survivor.

2.04.2 The victim/survivor will be offered emotional support and practical assistance through the agency.

3.00 INTERIM MEASURES

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 violence and/or misconduct. Interim measures may include, but are not limited to:

3.01 alteration of the academic schedule of any student involved in a complaint of sexual violence and/or misconduct;

3.02 no-contact undertakings;

3.03 temporary, non-disciplinary, leave of a person alleged to have committed sexual violence and/or misconduct; and

3.04 any other interim restrictions as may be determined by the College.

4.00 ACADEMIC ACCOMMODATIONS

- 4.01 A student who has experienced sexual violence and/or misconduct, including sexual violence and/or 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 Student Services department and/or the Accessibility Services Office, in accordance with the College procedures for requesting and granting academic accommodations.
- 4.02 A student requesting an academic accommodation under this policy is not required to file a complaint of sexual violence and/or misconduct to receive an academic accommodation.

5.00 CONFIDENTIALITY

- 5.01 Confidentiality is an important principle in creating an environment where those who have experienced sexual violence and/or 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 violence and/or misconduct, will be protected to the extent possible. However, disclosures of information may be made if:
- 5.01.1 the sharing of personal information is necessary for the protection of health or safety;
 - 5.01.2 the sharing of personal information is required or authorized by law; or
 - 5.01.3 the person the information is about has consented to the release of the personal information.

6.00 PROTECTION FROM RETALIATION

- 6.01 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:
- 6.01.1 having pursued options/rights under this policy
- 6.02 Anyone engaged in such conduct may be subject to discipline.

7.00 PROCEDURES

- 7.01 Complaints involving students as complainant and respondent shall be forwarded to the Director, Student Development.
- 7.02 Complaints involving an employee shall be forwarded to the Director, Human Resources.
- 7.03 If a complaint involves the Director of Human Resources, the complaint shall be forwarded to the Vice President Education, Students, International. If a complaint involves the Director, Student Development, the complaint shall be forwarded to the Vice President Corporate Services.
- 7.04 If the complaint involves the President or a member of the Board of Governors, the complaint shall be forwarded to the Board Chair, or the Board Vice-Chair if the complaint involves the Board Chair. The Board Chair or Board Vice-Chair will determine the appropriate procedures (follow the procedures in this policy to the extent possible) and will retain an external investigator as necessary.
- 7.05 The decision of a complainant or a respondent not to participate in a proceeding under this policy is not a bar to the continuation of the proceeding. A respondent who chooses not to participate in an investigation under this policy may still be subject to discipline or an investigation.
- 7.06 Reports which do not conform to the definition of a complaint in this policy, or a complaint that is outside the jurisdiction of this policy or beyond the 24-month reporting deadline may be dismissed by the Director, Student Development or the Director, Human Resources after consultation with the appropriate Vice President.
- 7.07 Any reference to a position in the policy includes any person that may be appointed a designate to that position.

8.00 RESOLUTION OPTIONS

The following options are encouraged but may not be possible or suitable depending on the nature of the complaint. Both are optional, and the complainant has the right to proceed directly to reporting options under this policy.

8.01 **Informing the Respondent Directly**

If a complainant believes he/she has been subjected to inappropriate conduct as defined in this policy, the complainant is encouraged to make the disapproval and/or discomfort known to the person responsible for the behaviour and tell the person to stop if possible.

If the complainant does not feel comfortable with attempting to resolve the situation with the person directly, or if such resolution attempt was not successful then no later than 24 months after the last alleged incident the complainant should notify one of the individuals listed in section 7.0 and may submit a complaint in accordance with this policy.

8.02 **Informal Mediation**

Mediation is an informal process and refers to options other than an investigation process. It is a problem solving approach with a goal of achieving a resolution satisfactory to the complainant, respondent and the College. For mediation to take place there must be agreement from both the complainant and the respondent.

If the complaint falls within the jurisdiction of this policy the Director, Human Resources or the Director, Student Development will discuss the complaint with the complainant and, with the complainant's consent, the respondent with a view to reaching a resolution. Options under the joint problem solving process include, but are not limited to, facilitated discussion or mediation.

If the joint problem solving process does not result in a resolution of the issues, the complaint may proceed under the investigation process.

If a resolution is achieved, the parties will sign a statement of the terms of the resolution. No resolution may impose obligations on the College without the College's consent.

The Director, Human Resources or Director, Student Development may refer the complaint to the investigation process at any time.

9.00 INVESTIGATION PROCESS

9.01 If the complaint falls within this policy and it has not been resolved through the informal mediation process, or it is determined by the Director, Human Resources or Director, Student Development that the investigative process is more suitable, then it will be investigated diligently and promptly. The investigation will be fair and impartial.

- 9.02 The Director, Human Resources or Director, Student Development shall provide the respondent with a copy of the complaint and ask that a response be provided within a specified timeline. This timeline may be extended by the Director, Human Resources or Director, Student Development based on a reasonable request from the respondent.
- 9.03 A College investigator or an outside consultant appointed by the Director, Human Resources or Director, Student Development, depending on the circumstances of the case, will conduct the investigation. The investigator will interview the complainant, the respondent and any other individual as necessary, and produce a report of the investigator's findings.
- 9.04 For employees, a copy of the investigator's report will be submitted to the Director, Human Resources and to the appropriate Vice President. The Vice President will decide whether to dismiss or uphold all or part of the complaint.
- 9.05 In the event that a direct report to a Vice President is a party in a complaint, a copy of the investigation report shall be submitted to an alternative Vice President. Where a Vice President is a party in a complaint, a copy of the investigator's report shall be submitted to the President.
- 9.06 For an employee, after consultation with the employee's supervisor the appropriate Vice President will impose or recommend corrective action or formal disciplinary action up to and including dismissal of the respondent.
- 9.07 If the complainant and respondent are students, a copy of the investigator's report will be submitted to the Director, Student Development, and to the Vice President, Education, Students, and International. The Vice President will decide whether to dismiss or uphold all or part of a complaint.
- 9.08 After consultation with the student's Program Dean as appropriate, the Vice President will impose or recommend corrective action or formal disciplinary action up to and including suspension/expulsion of the Respondent.
- 9.09 Depending on the nature of the disciplinary action, the President or the Board of Governors may have the final decision, subject to any appeals

10.00 SUPPORT DURING INVESTIGATIONS

- 10.01 All victims/survivors under this policy will be directed to community-based victim services for emotional support and guidance throughout the investigation process.

- 10.02 An employee who is either a complainant or respondent may access counselling, at their discretion, through the College's Employee Assistance Program and will be provided with information on how to do so by the College's Pension & Benefits HR Advisor.
- 10.03 At any investigatory or disciplinary meeting, employees who are bargaining unit members shall have the right to have a representative of his/her union in attendance.
- 10.04 At any investigatory or disciplinary meeting, exempt employees may choose to have a colleague in attendance. The colleague shall not be any person who may be placed in a conflict of interest.

11.00 INVESTIGATION REPORTS

- 11.01 The investigation report is confidential and will not be released by the College except as required by law.
- 11.02 The complainant and respondent will receive a written decision. The complainant has the right to know the outcome of an investigation.

12.00 SANCTIONS

- 12.01 Where a staff is found to have violated the Sexual Violence and Misconduct policy, the Director, Human Resources will enforce sanctions in alignment with the Employee Code of Conduct.
- 12.02 Where a student is found to have violated the Sexual Violence and Misconduct policy the Director, Student Development (or delegate) will:
 - 12.02.1 Impose sanctions commiserate with the nature and severity of the violation.
 - 12.02.2 Notify the student in writing of the:
 - 12.02.2.1 decision made with regard to the complaint.
 - 12.02.2.2 sanction(s) imposed, including duration of the sanction or other conditions in relation to the sanction.
 - 12.02.3 Notify the department of the sanction in situations where the sanction may impact the student's participation in the classroom or in department activities.

12.02.4 Implement the sanction and monitor compliance.

12.03 A list of possible sanctions which may be imposed by the College includes: coaching, community services, educational projects or assignment, formal apology, letter of expectation, letter of reprimand, loss of privileges, mediation/alternate dispute resolution, no contact directive, no trespass direction, probation, restorative conference, restriction, suspension, verbal warning, workshop/training attendance, permanent or temporary removal from residences, or other sanctions at the discretion of the Director, Student Development.

13.00 SUSPENSION

13.01 Where the Director, Student Development is of the view that suspension is the appropriate sanction, the Director shall inform the President in writing of the proposed sanction, including the reasons for the sanction.

13.02 If the President agrees that suspension is the appropriate sanction, the President shall impose the sanction.

13.03 If the President does not agree that suspension is appropriate, the President will refer the matter back to the Director (or delegate).

14.00 RETURN FOLLOWING SUSPENSTION

A student who has been suspended from the College is required to meet with the Director, Student Development prior to registration to review the College's expectations regarding student behaviour.

15.00 POWERS OF THE PRESIDENT

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

16.00 RECORD RETENTION

16.01 The Director, Human Resources or Director, Student Development is responsible for maintaining records.

16.02 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.

17.00 APPEALS

17.01 An employee may appeal his/her discipline using the procedures that apply to any disciplinary decision involving a member of that group of persons to which that employee belongs.

17.02 A student may appeal his/her suspension/expulsion as provided under the College and Institute Act.

17.03 Grounds

To appeal a sanction, a student must make an Application to Appeal showing that one or more of the following grounds have been met.

17.03.1 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

17.03.2 The severity of the sanction is disproportionate to the nature of the violation; or

17.03.3 The student was denied:

- an opportunity to know the case against him or her;
- an opportunity to respond to the case against him or her;
- an unbiased decision.

17.03.4 Appeal Application

An Application to Appeal must:

- identify the grounds for the appeal,
- include a copy of the original decision,
- set out the requested outcome.

17.03.5 Appeal Meeting

If a student is requested to attend a meeting with regard to 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.

Attendance at an appeal meeting by any other person shall be at the discretion of the entity hearing the appeal.

If a student does not attend a meeting when requested to do so, the matter will be decided based upon the available information.

17.03.6 Appeal of Sanctions other than Suspension

A student must submit an Application to Appeal to the Office of the Vice President, Education, Student, and International within seven (7) days of receiving the sanction decision.

Within fourteen (14) days of receiving the application, the Vice President may at his/her discretion:

- request a meeting with the student before rendering a decision;
- request additional information from internal or external sources. If such information is provided the student will be given an opportunity to respond to that information; or
- render a decision based on the written application.

In response to the appeal the Vice President may:

- deny the appeal because it does not meet the required grounds;
- deny the appeal and uphold the sanction; and/or
- grant the appeal and remove the sanction and impose a different sanction.

The Vice President will notify the student in writing as to the outcome of the appeal. Any decision rendered as an outcome of the process is not subject to further appeal.

17.03.7 Appeal of Suspension

Where a student is suspended from the College, the student may appeal this decision by submitting an Application to Appeal to the Board of Governors.

Within twenty-one (21) calendar days of receiving the application, a designated member of members of the Board may at his/her/their discretion:

- request a meeting with the student before rendering a decision;

- request additional information from internal or external sources. Should such additional information be provided, the student will be given an opportunity to respond to that information; or
- render a decision based upon the written application.

In response to an appeal, the designated member or members of the Board may:

- deny the appeal because it does not meet the required grounds;
- deny the appeal and uphold the suspension;
- grant the appeal and remove the suspension; or
- grant the appeal, remove the suspension and impose a different sanction.

The designated member or members of the Board will notify the student in writing of the outcome of the appeal.

18.00 SEXUAL ASSAULT AWARENESS, EDUCATION & TRAINING PROGRAMS

The College will implement ongoing awareness and education programs targeting the College Community, as appropriate, including: bystander intervention training and disclosure training.

19.00 DUTIES & RESPONSIBILITIES

19.01 Director, Student Development:

The Director of Student Development is responsible for the overall management of the Sexual Violence and Sexual Misconduct policy. The Director guides the development and implementation of policies and procedures.

19.02 The Sexual Violence Prevention and Response Working Group:

Under the direction of the Director, Student Development, this committee reviews, advises, and develops policies and procedures for sexual violence and misconduct prevention and response. This involves creating campus awareness and understanding that establishes a campus community that does not tolerate sexual violence and has a clear and comprehensive awareness and education program and prevention response plan. Specific functions of this committee are to:

- consider issues related to sexual violence and make any necessary recommendations;
- research and review best practices in sexual violence prevention and response;
- review, develop, and maintain a sexual violence and misconduct policy and response protocol;
- research and review appropriate support mechanisms;
- make recommendations for interventions and activities aimed at the prevention of sexual violence; and
- develop and deliver a sexual violence community awareness program.

19.03 College Community

All students, faculty, staff, and administration are responsible for being aware of and complying with this Policy and Procedures.

20.00 REVIEW

This policy will be reviewed annually.

21.00 COMMUNITY RESOURCES

Location	Organization	Contact	Website
Masset Haida Gwaii	Society for Community Peace	(250) 626-6049	http://www.hgpeace.ca/
Queen Charlotte City	Islands Wellness Society	(250) 559-8828	http://islandswellnesssociety.com/society-info/
Prince Rupert	North Coast Transition Society	(250) 627-4793	http://ncts.ca/
Terrace	Ksan House Society	(250) 635-2373	http://ksansociety.ca/
Kitimat	Tamitik Status of Women Association	(250) 632-8787	http://www.tamitik.ca/
Smithers	Northern Society for Domestic Peace	(250) 847-9000	http://domesticpeace.ca/
Hazelton	Northern Society for Domestic Peace	(778) 210-0283	http://domesticpeace.ca/
Houston	Northern Society for Domestic Peace	(250) 845-3212	http://domesticpeace.ca/

22.00 RELATED POLICIES

- Personal Student Misconduct Policy
- Employee Code of Conduct