

Policy:		Approved By:	President's Council
Approval Date:		Amendment Date:	
		Policy Holder:	Student Services

Sexual Violence and Misconduct Policy

1.0 POLICY STATEMENT

Northwest Community College (NWCC) 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.

2.0 PURPOSE

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

- creating an atmosphere in which sexual misconduct is not tolerated;
- providing education to the College Community about prevention of sexual misconduct;
- assisting those who have experienced sexual 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
- using clear, appropriate and fair processes for handling complaints of sexual misconduct.

3.0 SCOPE AND APPLICATION

- 3.0 This policy applies to students, employees, contractors, volunteers, visitors and members of the Board of Governors of the College in a College-related activity.
- 3.1 This policy is not intended to supersede or interfere with collective agreements or with prevailing laws.
- 3.2 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.
- 3.3 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.

4.0 DEFINITIONS



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 NWCC and; College-endorsed activities and events.

College Community: Students, employees, contractors, volunteers, visitors and members of the Board of Governors of the College.

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. A complaint can be made by a person who has experienced sexual misconduct (complaint) or who has been a witness to sexual misconduct (report).

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.

Disclosure: A report of sexual 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 and resources.

Employee: Any person employed by the College, and includes members of the Board of Governors.

No-Contact Undertaking: An agreement, mutually undertaken by two or more people, to refrain from contacting one another based on specified conditions.

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 videos 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:** Any form of unwelcome activity of a sexual nature imposed by one person (or more) on another without consent, including:



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

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

Student: An individual who is registered in a course or program at the College or who has been registered in a course or program at the time of the alleged misconduct occurred.



APPENDIX I – RESPONSE PROCEDURES

1.0 MAKING A COMPLAINT OR DISCLOSURE OF SEXUAL MISCONDUCT

1.1 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) **Police 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 and/or Student Services can facilitate making a report to the police. The College will cooperate with any criminal investigation.
- b) **On-Campus Complaint Option:** A complaint should be directed as follows:
- I. for students – a member of the Student Services team, the Director, Student Development, Dean, or Regional Director;
 - II. for employees – a supervisor, Human Resources Advisor, Dean, or Regional Director; or
 - III. for Board Members – the Board Chair or Vice-Chair.

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

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

- IV. 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 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;
- V. An employee can seek assistance through the College's *Employee Assistance Program (EAP)* and may seek any necessary accommodations;
- VI. Disclosure may not initiate a process to investigate the sexual misconduct or engage any resolution process.

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

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

2.0 INTERIM MEASURES



- 2.1 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;
 - 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.

3.0 ACADEMIC ACCOMMODATIONS

3.1 A student who has experiences 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 Student Services department and/or the Accessibility Services Office, in accordance with the College procedures for requesting and granting academic accommodations.

3.2 A student requesting an academic accommodation under this policy is not required to file a complaint of sexual misconduct to receive an academic accommodation.

4.0 CONFIDENTIALITY

4.1 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, disclosures 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.

5.0 PROTECTION FROM RETALIATION

5.1 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 on who has pursued rights under this policy.



5.2 Anyone engaged in such conduct may be subject to discipline.

6.0 PROCEDURES

- a) Complaints involving students as complainant and respondent shall be forwarded to the Director, Student Development.
- b) Complaints involving an employee shall be forwarded to the Associate VP, Human Resources.
- c) If a complaint involves the Associate Vice President, Human Resources, the complaint shall be forwarded to the Director, Student Services.
- d) 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.
- e) 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.
- f) Allegations 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 6 month reporting deadline may be dismissed by the Director, Student Development or the Associate VP Human Relations after consultation with the appropriate Vice President.
- g) Any reference to a position in the policy includes any person that may be appointed a designate to that position.

7.0 RESOLUTION OPTIONS

7.1 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 6 months after the last alleged incident the Complainant should notify one of the individuals listed in section 2.0 and may submit a Complaint in accordance with this policy.

7.2 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 Associate Vice President, Human Resources or the Director, Student Development will discuss the allegation/situation with the Complainant and, with the Complainant's consent, may also discuss it with 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 Associate Vice President, Human Resources or Director, Student Development may refer the Complaint to the investigation process at any time.

8.0 INVESTIGATION PROCESS

- 8.1** If the Complaint falls within this policy and it has not been resolved through the informal medication process, or it is determined by the Associate VP, 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.
- 8.2** The Associate VP, 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 Associate VP, Human Resources or Director, Student Development based on a reasonable request from the Respondent.
- 8.3** A College investigator or an outside consultant appointed by the Associate VP, 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.
- 8.4** For employees, a copy of the investigator's report will be submitted to the Associate VP, Human Resources and to the appropriate Vice President. The Vice President will decide whether to dismiss or uphold all or part of the Complaint.
- 8.5** 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.



- 8.6 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.
- 8.7 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, Students. The Vice President will decide whether to dismiss or uphold all or part of a Complaint.
- 8.8 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.
- 8.9 Depending on the nature of the disciplinary action, the President or the Board of Governors may have the final decision, subject to any appeals

9.0 SUPPORT DURING INVESTIGATIONS

- 9.1 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 Coordinator.
- 9.2 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.
- 9.3 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.

10.0 INVESTIGATION REPORTS

- 10.1 The investigation report is confidential and will not be released by the College except as required by law.
- 10.2 The Complainant and Respondent will receive a written decision. The Complainant has the right to know the outcome of an investigation, but not the details of the disciplinary action, if any, against the Respondent.

11.0 POWERS OF THE PRESIDENT

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

12.0 RECORD KEEPING



- 12.1 The Associate VP, Human Resources or Director, Student Development is responsible for maintaining records.
- 12.2 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.

13.0 APPEALS

- 13.1 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.
- 13.2 A student may appeal his/her suspension/expulsion as provided under the College and Institute Act

14.0 SEXUAL ASSAULT AWARENESS, EDUCATION AND TRAINING PROGRAMS

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

15.0 DUTIES AND RESPONSIBILITIES

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.

The Sexual Violence Prevention and Response Working Group

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; and
- develop and deliver a Sexual Violence community awareness program.

NWCC Community

The NWCC Community is responsible for being aware of and complying with this Policy and Procedures.

16.0 REVIEW



14.1 This policy will be reviewed annually.

17.0 COMMUNITY RESOURCES

Masset - Haida Gwaii Society for Community Peace

P: (250) 626-6049

W: <http://www.hgpeace.ca/>

Queen Charlotte City – Islands Women Society

P: (250) 559-8828

W: <http://islandswellnessociety.com/society-info/>

Prince Rupert – North Coast Transition Society

P: (250) 627-4793

W: <http://ncts.ca/>

Terrace – Ksan House Society

P: (250) 635-2373

W: <http://ksansociety.ca/>

Kitimat – Tamitik Status of Women Association

P: (250) 632-8787

W: <http://www.tamitik.ca/>

Smithers – Northern Society for Domestic Peace

P: (250) 847-9000

W: <http://domesticpeace.ca/>

Houston – Northern Society for Domestic Peace

P: (250) 845-3212

W: <http://domesticpeace.ca/>

