

4.8.8 Sexualized Violence Prevention and Response

POLICY

College of the Rockies (the College) is committed to creating and maintaining a safe learning and working environment characterized by mutual respect and civility. Safety at the College is a priority and any form of sexualized violence will not be tolerated. The College will address sexualized violence in the College Community through providing support to survivors, increasing awareness of sexualized violence, providing training and prevention programs to students and College employees, and by the appropriate handling of disclosures or reports of sexualized violence. Those who have experienced sexualized violence will be treated with compassion, dignity, and respect.

PURPOSE

The purpose of this policy is to clearly articulate the College's commitment to addressing sexualized violence through:

- Creating an atmosphere in which sexualized violence is not tolerated;
- Providing education to the College Community about prevention of sexualized violence;
- Assisting those who have experienced sexualized violence 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 just processes for handling disclosures and/or reports of sexualized violence.

This policy is developed as per the *College and Institute Act* and *Bill 23-2016 Sexual Violence and Misconduct Policy Act*.

SCOPE

- This policy applies to students and employees in a College-related activity (as defined below).
- In exceptional circumstances, incidents that have substantial connection to the College and adversely affect the complainant's course of learning, teaching, or work, may fall within the scope of this policy.
- This policy is not intended to supersede or interfere with collective agreements or with prevailing laws.
- Anyone who has experienced sexualized violence has the right to pursue criminal or civil legal avenues whether or not they choose to proceed under this policy.
- All processes must follow the principles of natural justice and must appropriately protect the rights of both the person making a disclosure and/or report, and the person accused.

DEFINITIONS

College-related Activity: Includes an activity conducted under the authority of the College at any location. The activity 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.

College Community: Students and employees as defined below.

- **Employee:** Any person employed by the College, contractors, and sub-contractors engaged by the College, and members of the Board of Governors of the College.
- **Student:** Any person enrolled at the College.

Complainant: The person who has filed a formal report to the College alleging a violation of this policy.

Consent: An active, direct, voluntary, un-coerced, ongoing, unimpaired and conscious choice and agreement between individuals to engage in sexual activity. Consent can be withdrawn at any point.

Disclose or Disclosure: The sharing of information regarding an incident of sexualized violence with a member of the College Community.

Procedural Fairness: Provides parties with a fair process in resolving disputes. The concept requires transparency, equal communication, and fairness.

Report: A written statement of facts including a record of the dates, times, and nature of any incidents, and names of witnesses, if applicable. The report must contain sufficient detail to allow the College to assess the incident and conduct an investigation, if required. A report can be made by a person who has experienced sexualized violence or who has been a witness to sexualized violence.

Respondent: The person who is alleged to have violated this policy.

Sanction: Discipline imposed for disobeying a rule or policy.

Sexualized Violence: Refers to any sexual act or act targeting a person's sexuality, whether the act is physical, verbal, or psychological in nature, which is committed, threatened or attempted against a person without the person's consent.

Note: Reference to a person applies regardless of gender, sexual orientation or gender identity.

Sexualized violence can include but is not limited to:

- 1) **Sexual Assault:** Any form of sexual contact without consent from all parties, and can include:
 - a) Acquaintance sexual assault: sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance; and
 - b) Drug-facilitated sexual assault: the use of alcohol and/or drugs by a person to control, overpower or subdue a person for sexual purposes.
 - c) Stealthing: the act of removing any protective barrier (i.e. condom, latex dam) during sex without the consent of a partner.

- 2) **Sexual Exploitation:** The involvement of a young person (a person 16 years of age or more and under the age of 18) in the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life, and/or money. Sexual exploitation includes involving a young person in creating pornography and sexually explicit websites.
- 3) **Sexual Harassment:** Usually involves a course of unwanted remarks, behaviours, or communications of a sexual nature and/or a course of unwanted remarks, behaviours or communications 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 these are unwanted. A single incident may, in certain circumstances, constitute harassment. Sexual harassment includes, but is not limited to:
 - a) sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);
 - b) the inappropriate display of sexually suggestive images or objects;
 - c) non-consensual posting and/or distribution of sexually explicit pictures, video, aggressive comments, or slurs on any form of social media;
 - d) unwanted physical contact of a sexual nature; and
 - e) sexual conduct that interferes with an individual's dignity or privacy.
- 4) **Stalking:** A form of 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, in the context of this policy, pertains to harassment by a current or former intimate partner, or where the behaviours are of a sexual nature. Stalking can also include threats of harm to a person's friends and/or family. These behaviours include, but are not limited to:
 - a) non-consensual communications (face-to-face, phone, email, social media);
 - b) threatening or obscene gestures;
 - c) surveillance, sending unsolicited gifts, "creeping" via social media/cyber-stalking; and
 - d) uttering threats.
- 5) **Indecent Exposure:** The act of intentionally showing one's sexual organs in public.
- 6) **Voyeurism:** The practice of gaining sexual gratification by secretly observing unsuspecting individuals.
- 7) Distribution of a sexually explicit image of a person without the consent of the person in the image.
- 8) The attempt to commit an act of sexualized violence as defined above.
- 9) The threat to commit an act of sexualized violence as defined above.

GUIDELINES

A. MAKING A DISCLOSURE OR REPORT OF SEXUALIZED VIOLENCE

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

A. 1 Disclosure Without a Report Option

- 1) If a student has experienced sexualized violence at a College-related or non-College related activity and does not want to report the experience through the criminal justice system or the College's non-criminal report option, the student may disclose to any member of the College Community. The student has the option of disclosing their experience to a counsellor in Student Services or the Director of Student Affairs to receive support and academic accommodations that may be needed;
- 2) If an employee has experienced sexualized violence at a College-related or 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 report option, the employee may disclose to any member of the College Community. The employee can seek assistance through the College's Employee and Family Assistance Program and may seek any necessary accommodations through the Human Resources Coordinator - Health and Safety; or
- 3) If a member of the College Community witnesses or receives a disclosure of sexualized violence, the member can seek guidance and support from the Director of Student Affairs, and/or the Human Resources Coordinator - Health and Safety, and/or the College counsellor.

Disclosure will not initiate a process to investigate the sexualized violence or engage any resolution process. However, there may be circumstances where a disclosure reveals a significant potential safety risk, and the College would have a legal obligation to investigate, even if the individual has not filed a report.

A. 2 Non-Criminal Reporting Option

Individuals who have experienced sexualized violence at a College-related activity can report this incident by contacting the individuals below:

- 1) For students – the Director of Student Affairs;
- 2) For employees – the Human Resources Coordinator - Health and Safety;
- 3) If the incident involves the Director of Student Affairs, the Human Resources Coordinator - Health and Safety or the President – the report should be directed to the Executive Director, Human Resources and Payroll.

During an investigation, information provided by those involved may be shared with relevant parties involved to ensure a fair and thorough investigation. The limits of confidentiality (as defined in D of this policy) will be discussed with the complainant at the beginning of the investigation process.

A. 3 Criminal Reporting Option

Individuals may report their allegations through the criminal justice system by contacting the RCMP or local police detachment. An individual making a report to the RCMP is not required to involve or inform the College. The College will co-operate with any criminal investigation.

B. INTERIM MEASURES

Prior to the commencement of an investigation or resolution process, the College may impose interim measures. The purposes of these interim measures are to:

- Ensure the safety, both physical and psychological, of the persons involved and the safety of the College’s learning, working, and residence environment.
- Discourage or prevent retaliation.
- Prevent further sexualized violence and/or prevent the College’s ability to conduct a thorough investigation.

- B. 1 The College may impose non-disciplinary conditions on a person alleged to have committed sexualized violence. Such conditions may be imposed in response to a disclosure or report.
- B. 2 The need for interim measures, and which measures are imposed, will be determined on a case-by-case basis, taking into account the circumstances of each situation.
- B. 3 Any decision to impose interim measures will not be construed as a decision or discipline against the complainant or respondent and will not be weighed against the respondent in a discipline process. Interim measures will remain in effect for as long as is reasonably required pending the outcome of an investigation or appeal process.
- B. 4 The complainant and/or respondent may request, in writing, a review of the imposed interim measures.
- B. 5 The College may, upon request or on its own initiative, put interim measures in place to address a disclosure or report of sexualized violence while matters are under investigation or review by the RCMP or outside agency.

C. ACCOMMODATIONS

- C. 1 A student who has experienced sexualized violence at a College or non-College related activity, and who is seeking an accommodation (including but not limited to exam deferral, an extension on an assignment, withdrawing from a class, changing location of studies to another campus or online, assistance with a safe place to stay) should speak to the Director of Student Affairs.
- C. 2 A student requesting an accommodation under this policy is not required to file a report of sexualized violence to receive an academic accommodation.
- C. 3 An employee who has experienced sexualized violence at a College or non-College related activity, and who is seeking accommodations, should speak to the Human Resources Coordinator - Health and Safety.

D. CONFIDENTIALITY

D. 1 Confidentiality is an important principle in creating an environment where those who have experienced sexualized violence feel safe to disclose and seek support. The privacy and confidentiality of all members of the College Community involved in any disclosure of sexualized violence will be protected to the extent possible; however, disclosure of information may be made if:

- 1) The sharing of personal information is necessary for the protection of health or safety of individuals and/or the College Community;
- 2) The sharing of personal information is required or authorized by law;
- 3) It is necessary to ensure procedural fairness in an investigation or other response to a report; or
- 4) The person the information is about has provided written consent to the release of the personal information.

E. PROTECTION FROM RETALIATION

E. 1 It is contrary to this policy for anyone to retaliate, engage in reprisals, or threaten to retaliate against a person making a report, a witness, or other individual for:

- 1) Having pursued options/rights under this policy or any other relevant Provincial or Federal legislation;
- 2) having participated or co-operated in a report under this policy; or
- 3) having been associated with someone who has pursued rights under this policy.

E. 2 Anyone engaged in such conduct may be subject to discipline according to College policies and agreements listed in I.

F. INVESTIGATION

F. 1 The Director of Student Affairs or the Human Resources Coordinator – Health and Safety will work with the Executive Director, Human Resources and Payroll, or designate, to determine whether the matter will be investigated internally or externally.

F. 2 The final investigation report will be provided to the Director of Student Affairs or the Executive Director, Human Resources and Payroll.

F. 3 After the final investigation report is provided to the Director of Student Affairs or the Executive Director, Human Resources and Payroll, the parties in the report will be notified in writing the outcome of the investigation in summarized format.

F. 4 The complainant may withdraw from an investigation by making a written request to either the Director of Student Affairs or the Human Resources Coordinator - Health and Safety.

F. 5 Upon receipt of a request to withdraw, the investigation will cease, and the parties will be notified. In situations where there is risk to the health and safety of individuals or the College Community, an investigation may proceed without the complainant.

F. 6 An investigation through the College may continue if the complainant leaves the institution.

- F. 7 When an investigation establishes that a student or an employee has violated the *Sexualized Violence Prevention and Response* policy, discipline will be imposed as follows:
- 1) In the case of a student respondent, the Director of Student Affairs, or designate, may impose sanctions up to, but not including, temporary or permanent suspension from the College. If the Director of Student Affairs determines that suspension may be an appropriate sanction, the Director of Student Affairs will refer the matter to the President to decide the sanction. If the President subsequently decides that a lesser sanction is appropriate, the President may refer the matter back to the Director of Student Affairs with direction.
 - 2) In the case of an employee respondent, the President, in consultation with the Executive Director, Human Resources and Payroll, or designate, will determine the sanction, up to and including termination of employment, are appropriate.

G. APPEAL PROCESS

Appeals regarding disciplinary actions for violations of the *Sexualized Violence Prevention and Response* policy must be addressed as follows:

- G. 1 Students wishing to file an appeal about the reporting or investigation process may do so through the 2.5.3 *Student Appeal* policy.
- G. 2 Employees wishing to file an appeal may do so through the applicable College policies, employment or contracts and/or collective agreements.

H. REVIEW AND ACCOUNTABILITY

- H. 1 This policy will be reviewed in response to the changes in law or the needs of the College Community, and at least once every three years.
- H. 2 The President will report to the College Board of Governors on the implementation and review of this policy on an annual basis.
- H. 3 The Sexualized Violence Prevention and Response Committee will review, advise, and develop protocols and procedures for sexualized violence prevention and response. This involves creating awareness and understanding that establishes a College Community that does not tolerate sexualized violence and has a clear and comprehensive awareness and education program, and prevention and response plans. Specific functions of this Committee are to:
- Consider issues related to sexualized violence and make any necessary recommendations relating to College policy and procedure;
 - Maintain current knowledge of law related to sexualized violence as well as support services for survivors of sexualized violence;
 - Research and review leading practices in sexualized violence prevention and response;
 - Review, develop, and maintain a sexualized violence policy and response protocol; and
 - Develop and deliver a sexualized violence awareness program.

H. 4 The Director of Student Affairs and the Executive Director, Human Resources and Payroll are responsible for updating and implementing this policy.

I. RELATED POLICIES, AGREEMENTS AND RESOURCES

- [4.8.2 Abuse and Violence in the Workplace](#)
- [4.8.6 Discrimination/Harassment](#)
- [8.1 Use of Information Technology](#)
- [2.4.4. Student Conduct](#)
- [2.5.3 Student Appeal](#)
- Collective Agreements
- [1.1.5 Code of Ethics](#)
- Student Housing Handbook and Licence Agreement
- College of the Rockies – Homestay Program Agreement for Host Families
- See the following link for internal and external resources to assist those who have experienced sexual violence: <https://cotr.bc.ca/student-services/student-support/sexual-violence/>