



Title	Sexual Violence and Misconduct
Policy No.	A.3.10
Approval Body	Board of Governors
Policy Sponsor	Vice President, Administration & International Development
Last Full Review	November 25, 2020
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CONTEXT AND PURPOSE

This Policy and the accompanying Procedures affirms Vancouver Community College's (VCC, the College) commitment to providing a safe, respectful, and inclusive environment where Sexual Violence or Misconduct is not tolerated. It outlines a process for Disclosing and Reporting incidents of Sexual Violence or Misconduct to the College and makes clear the College's responsibilities and procedures for reporting and investigating those incidents. It also outlines clear measures the College will take to assist and support survivors of Sexual Violence or Misconduct, whether or not they have filed a Report.

This Policy is not intended to interfere with any other College policy, Collective Agreement or applicable law. College Members may choose to proceed with an allegation of Sexual Violence or Misconduct pursuant to this Policy and its related Procedures, or through another appropriate grievance process or College procedure. However, College Members may not pursue more than one concurrent College process related to the same allegations.

In accordance with the *Sexual Violence and Misconduct Policy Act*, this Policy will be reviewed at least once every three years. The President will report to the Board of Governors on the implementation of this Policy on an annual basis.

SCOPE AND LIMITS

This Policy and its related Procedures apply to all current College Members while they are:

- engaging in a College-Related Activity;
- on College property;
- acting in a capacity defined by their relationship to the College; and/or
- Interacting with persons known to them because of their relationship to the College, regardless of whether the incident occurs off campus.

For the purposes of College investigations, outcomes and corrective action, including discipline, this Policy applies only to Sexual Violence or Misconduct by a College Member against another College Member. The College will provide support and resources to any College Member who is a Survivor of Sexual Violence or Misconduct, but the College does not have the jurisdiction to investigate or implement corrective action on a Person Accused who is not a College Member.

STATEMENT OF POLICY PRINCIPLES

1. VCC will not tolerate Sexual Violence or Misconduct. VCC is committed to promoting a safe, inclusive, and respectful learning and working environment free from Sexual Violence or Misconduct at all times.
2. VCC recognizes that peoples' experiences of Sexual Violence or Misconduct can be impacted by multiple forms of intersecting oppression such as misogyny, sexism, racism/white supremacy, poverty/classism, ableism, transphobia, homophobia, ageism, religious discrimination, and colonization.
3. VCC recognizes that individuals of all gender identities, gender expressions, and sexual orientations may experience Sexual Violence or Misconduct.
4. VCC understands that Sexual Violence or Misconduct can have a significant impact on Survivors and their community; that violence, harassment, and threats can seriously impact the ability of College Members to function in their studies, work, and lives; and can lead to lasting emotional, mental, and physical injuries. The College understands that each Survivor will be impacted by, and respond differently to, Sexual Violence or Misconduct.
5. VCC is committed to creating a space where College Members who have experienced Sexual Violence or Misconduct can feel safe to Disclose and seek support from VCC. VCC is committed to respecting the rights of those who Disclose Sexual Violence or Misconduct to make their own decisions about accessing support services, making a Report, or pursuing external processes such as criminal or civil actions.
6. All individuals involved in a complaint will be treated in a fair and equitable manner, in accordance with the principles of Procedural Fairness and Natural Justice.
7. VCC will respond to Disclosures, and conduct investigations into Reports, in a timely manner.
8. VCC is committed to protecting the confidentiality of Survivors and Persons Accused/Respondents. College Members who receive a Disclosure or Report must make every reasonable effort to protect confidential information and maintain confidentiality. However, there are limits to confidentiality. VCC may need to disclose information or proceed with an investigation in certain exceptional circumstances as described in the Procedures.
9. The College's counselling service will be freely available for student Survivors. The College has made available a list of community resources for all College Members who have experienced Sexual Violence or Misconduct in Appendix A of this Policy's Procedures.
10. Respondents who have been found to have committed an act of Sexual Violence or Misconduct will be held accountable by the College and will be subject to responsive action up to and including expulsion or termination, in accordance with College policies and/or the applicable Collective Agreement.

11. VCC is committed to providing comprehensive and inclusive Sexual Violence or Misconduct prevention and response training to College Members. This may include a combination of campaigns, online and in-person training sessions, workshops, print and online resources, programs, and other events on a range of topics related to reducing, preventing, and responding to Sexual Violence or Misconduct, and on providing support to Survivors. The College maintains a Gender Based Violence Education and Prevention Committee to support prevention and response training.

DEFINITIONS

Accommodation: the provision by the College of reasonable and appropriate academic, workplace or other measures that:

- a. are provided to a member of the College Community affected by Sexual Violence or Misconduct;
- b. are designed to meet that person's needs resulting from an incident of Sexual Violence or Misconduct; and
- c. do not infringe on the rights of others.

Examples of academic accommodation in teaching or evaluation procedures may include providing an extension on an assignment, deferring an exam, authorizing withdrawal from a class without penalty or allowing continuing studies from home.

Balance of probabilities: The standard of proof upon which a decision is based indicating that one accounting of facts is more likely to have occurred than another when a Report of Sexual Violence or Misconduct is made.

College Member: Refers to all current VCC Students, Employees, and Board members.

College-Related Activity: Includes an activity conducted on College property or under the authority of the College at another location. The activity in question and persons involved must have a real and substantial connection to the College, College activities or College-related functions, whether or not the conduct occurs on College property.

Complainant: An individual who experiences an alleged incident of Sexual Violence or Misconduct, and seeks resolution, support, or assistance through this Policy and associated Procedures.

Consent: An active, voluntary, conscious, and ongoing choice and agreement between people to engage in sexual activity. It is the responsibility of the person initiating or pursuing sexual activity to obtain consent at all stages of sexual engagement. More specifically, consent:

- a. Is explicit and freely given. It cannot be assumed or based on a perception that it was implied;
- b. Cannot be given by someone who is incapacitated (by drugs and/or alcohol), asleep, unconscious, or otherwise incapable of providing consent;
- c. Can be withdrawn at any time, regardless of whatever other sexual activities have taken place;
- d. Can never be obtained through threats, intimidation, coercion, or other pressure tactics;
- e. Cannot be obtained if someone abuses a position of trust, power or authority; and

- f. Cannot be assumed from previous consent to the same or similar activities.

Disclose, Disclosure, or Disclosing: The sharing of information by a College Member regarding an incident of Sexual Violence or Misconduct with another College Member. A Disclosure does not initiate an investigation unless a Report is made.

Employee: An individual who is currently employed by VCC on a full-time, part-time, permanent, temporary, term, casual or contract basis.

Interim Measures: The temporary provisions that may be placed on a Person Accused of Sexual Violence or Misconduct by the College. Interim Measures are designed to limit contact between the Complainant and Respondent while an investigation is conducted, and are not intended to be punitive in nature.

Investigation: The formal process carried out by the College to examine and verify the events described in a Report, as set out in the Procedures.

Person Accused/Respondent: The individual who is alleged to be responsible for committing Sexual Violence or Misconduct in a Disclosure or Report.

Procedural Fairness and Natural Justice: The principles ensuring that a dispute is fairly decided. If a Report is made both the Complainant and Respondent(s) have equal rights to the following, in accordance with applicable law:

- a. Notice;
- b. Disclosure;
- c. An opportunity to present one's case;
- d. An opportunity to respond;
- e. An advocate
- f. Have all relevant information considered;
- g. Legitimate expectations;
- h. An impartial and unbiased decision maker;
- i. A sufficiently detailed, reasoned and timely decision; and
- j. A fair and timely process.

Report or Reporting: Making a formal statement to the Director of Safety, Security and Risk Management, or their designate, regarding an incident of Sexual Violence or Misconduct with the intention of initiating an investigation.

Sexual Misconduct: For the purpose of this Policy, Sexual Misconduct or sexual violence is behaviour, or action, and/or a continuum of behaviour and/or action that includes, but is not limited to:

- a. Sexual Assault: Any non-consensual or unwanted sexual contact, including but not limited to, oral contact (kissing), touching, genital contact, tampering with contraceptives, penetration, and/or any threatening behavior that gives a person reasonable cause to believe that they are at risk of any kind of sexual violence.

- b. Sexual Exploitation: Touching, directly or indirectly, with a part of the body or with an object, any part of the body of a young person for a sexual purpose. Or inviting, counselling, or inciting a young person to touch, directly or indirectly, with a part of the body or with an object, the body of another person.
- c. Sexual Harassment: Conduct of a sexual nature by a person who knows or ought reasonably to know that such behavior is unwanted or unwelcome, which leads to or implies employment or academic consequences of the person harassed, interferes with a person's participation in a College Related Activity, or creates an intimidating, hostile or offensive working or educational environment. Examples of sexual harassment include, but are not limited to:
 - i. Demanding a hug, date or sexual contact;
 - ii. Unwanted touching or demanding/asking to be touched;
 - iii. Use of derogatory language, sex-specific derogatory names, and/or comments related to a person's sexual appearance, characteristics or behavior;
 - iv. Sexual jokes, including jokes or material circulated by email;
 - v. Spreading sexual rumours;
 - vi. Bragging about sexual prowess;
 - vii. Distributing and/or displaying sexually explicit images of self or others to a person who has not consented to being a recipient of the images;
 - viii. Unwanted questions about sexual history.
- d. Stalking: Actions by a person that cause another person to reasonably fear for their safety or the safety of anyone known to them. Stalking consists of a person:
 - i. Repeatedly following another person or anyone known by that other person from place to place;
 - ii. Repeatedly communicating directly or indirectly with another person or anyone known by that other person;
 - iii. Watching another person's home, commute, work location, classroom locations, or anywhere else a person known by that other person happens to be; and/or
 - iv. Engaging in threatening conduct directed at another person or any member of that person's family.
- e. Indecent Exposure: The non-consensual exposure of one's genitals to another person for a sexual purpose.
- f. Voyeurism: The surreptitious observation or recording of a person who is in circumstances that give them a reasonable expectation of privacy, where the person could reasonably be expected to be nude or engaging in sexual activity; or where the observation or recording is done for a sexual purpose.
- g. Coercion: Unreasonable and persistent pressure for sexual activity. The use of emotional manipulation, blackmail, threats to the Survivor (including those to family, friends, or pets), or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do.

- h. The distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without the consent of the person in the photograph or video and with the intent to distress the person in the photograph or video.
- i. The attempt to commit an act of Sexual Violence or Misconduct.
- j. The threat to commit an act of Sexual Violence or Misconduct.

Student: A person who is registered in a full-time or part-time credit or non-credit course offered by VCC. Persons are still considered a student if they withdraw after allegedly violating the Student Code of Conduct or have been subject to involuntary withdrawal. Those who are not officially enrolled for a particular term but who have a continuing relationship with VCC or who have been notified of their acceptance for admission are also considered students.

Survivor: A member of the College community who has experienced Sexual Violence or Misconduct. Survivors who choose to Report may also be referred to as Complainants.

Vexatious Report: A Report is considered vexatious when it is possible to demonstrate that the Report is without basis and that it was made with an intention to cause annoyance, embarrassment, or distress.

RELATED LEGISLATION & POLICIES

Legislation

Criminal Code of Canada

Freedom of Information and Protection of Privacy Act

Human Rights Code

Sexual Violence and Misconduct Policy Act (Bill 23 – 2016)

Workers' Compensation Act; Occupational Health & Safety Regulation Part 4

Policies

A.1.2 Student Appeal of Suspension to the College Board

A.3.1 Prevention of Harassment, Discrimination, and Bullying

A.3.3 Freedom of Information and Protection of Privacy (FOIPPA)

A.3.6 Standards of Employee Conduct & Conflict of Interest

A.3.8 Violence Prevention

B.2.19 Whistleblower

B.5.2 Appropriate and Responsible Use of Education and Information Technology

C.3.7 Off Campus Activity Involving Students

D.4.2 Student Grievance

D.4.3 Student Code of Conduct (Non-Educational Matters)

RELATED PROCEDURES

Refer to A.3.10 Sexual Violence and Misconduct Procedures.