



## PROCEDURES

Title	<b>Sexual Violence and Misconduct</b>
Policy No.	A.3.10
Approval Body	Board of Governors
Policy Sponsor	Vice President, Administration & International Development
Last Revised/Replaces	May 17, 2017
Effective Date	November 25, 2020

### General

1. VCC understands it can be difficult to talk about Sexual Violence or Misconduct and respects the rights of Survivors to choose whether to Disclose and/or Report an incident of Sexual Violence or Misconduct, but encourages survivors to do one or both to enable the College to provide support.
2. A College Member who has experienced Sexual Violence or Misconduct has the right to:
  - a. Be treated with dignity and respect;
  - b. Have their privacy respected and protected, within the reasonable limits of confidentiality;
  - c. Be informed about on and off campus services and resources;
  - d. Access available services and to choose those services felt to be most beneficial;
  - e. Decide whether or not to Disclose, make a Report to VCC, and/or to contact police;
  - f. Have reasonable actions taken to prevent further unwanted contact with the other person(s) involved in the incident;
  - g. Receive clear and transparent information throughout the process;
  - h. Be accompanied by a support person throughout the process.
3. College Members who are accused of Sexual Violence or Misconduct have the right to:
  - a. Be treated with dignity and respect;
  - b. Have their privacy respected and protected, within the reasonable limits of confidentiality;
  - c. Be informed about on- and off-campus services and resources;
  - d. Access available services and to choose those services felt to be most beneficial;
  - e. Receive clear and transparent information throughout the entire process;
  - f. Be accompanied by a support person throughout the entire process.

### Immediate Assistance and Options for Survivors

4. The College encourages, but does not require, individuals impacted by Sexual Violence or Misconduct to seek immediate assistance from a medical service provider, the police, VCC's Counselling Services, Human Resources, the Department of Safety, Security, and Risk Management, and/or community resources.

5. In addition to disclosing Sexual Violence or Misconduct to a College Member, Survivors are entitled to choose any one of the following College processes, but may not pursue more than one College option concurrently. Their options include:
  - a. Making a Report to the College;
  - b. Filing a grievance under an applicable collective agreement;
  - c. Filing a complaint under Policy A.3.1 Prevention of Harassment, Discrimination, and Bullying;
6. Survivors may report their allegations through the criminal justice system by contacting the police. If an individual chooses to do so, VCC's Department of Safety, Security, and Risk Management can assist with making a Report. The College will lawfully cooperate with any criminal investigation.

## **PROCEDURES FOR DISCLOSING AND REPORTING SEXUAL VIOLENCE OR MISCONDUCT**

### Disclosures and Reports

7. An individual who has experienced Sexual Violence or Misconduct has the option to make a Disclosure or to file a Report. A Disclosure is when a survivor shares information of an incident to a College Member. This does not trigger an investigation, but allows the College Member to provide support and resources to the survivor in confidence. A Report is a formal statement which initiates an investigation by the College into an incident of Sexual Violence or Misconduct.
8. While there is no time limit to an individual Disclosing or Reporting Sexual Violence or Misconduct or accessing support, the College may not have jurisdiction to investigate a Report if the parties involved are no longer affiliated with the College or the lapse of time may make it impossible to investigate.

### Disclosing Sexual Violence or Misconduct

9. A Survivor may choose to Disclose an incident of Sexual Violence or Misconduct to any College Member, including but not limited to a Faculty Member, a staff member from Counselling, Disability Services, Human Resources, Student Services, Campus Security, or the Students' Union of VCC (SUVCC).
10. A Survivor of Sexual Violence or Misconduct usually makes a Disclosure when they need emotional support from a person they trust. It is not the role of the person who receives the Disclosure to initiate an investigation or implement any accommodations. If College Members receive a Disclosure of Sexual Violence or Misconduct, they should:
  - a. focus on listening, giving support, and connecting the Survivor with resources to meet their immediate needs (e.g. connecting the Survivor with VCC Counselling if they have been given clear and express consent to do so);
  - b. recognize that experiencing and Disclosing Sexual Violence or Misconduct can be traumatic and the ability to recall the events may be limited;
  - c. advise Survivors of the Policy and these Procedures, including the additional resource options referenced in Appendix A;

- d. respect the Survivor's right to choose the services they feel are most appropriate and to decide whether to Report to the College and/or contact police; and
  - e. except as provided in paragraph 11 below, not disclose information to others or report the incident to the police or VCC Safety, Security, and Risk Management without the express consent of the Survivor.
11. To the greatest extent possible, VCC will respect a Survivor's choice not to make a Report and will keep the Disclosure confidential. Information will be shared with the College strictly on a 'need-to-know' basis. The Survivor's wishes and confidentiality will be prioritized. However, in certain circumstances, VCC may be permitted or required to disclose information it receives, including but not limited to, when:
- a. A person is judged to be at imminent risk of self-harm or of harming another College Member;
  - b. There is judged to be an imminent risk of harm to the College community and/or the broader community through continued Sexual Violence or Misconduct;
  - c. Disclosure is otherwise required by law, including but not limited to when:
    - i. the disclosure involves sexual harassment in the workplace and is required under the *BC Workers' Compensation Act*; or
    - ii. a person under 19 years of age is endangered.
  - d. Evidence of Sexual Violence or Misconduct is available in the public domain (e.g., videos/images shared publicly).
12. In the circumstances described above, VCC may do one or both of the following:
- a. Initiate an investigation in which case the individual who Disclosed may choose not to participate in the investigation; and or
  - b. Notify third parties, such as the police, WorkSafeBC, or child protection authorities.
13. College Members who receive a Disclosure should provide a compassionate, respectful, and reassuring response to a Survivor who chooses to Disclose. The most important thing to do for the Survivor is to be there in a supportive capacity. College Members who require support about how to respond to a Disclosure may contact the Department of Safety, Security, and Risk Management.

#### Reporting Sexual Violence or Misconduct

14. Anyone who experiences or witnesses Sexual Violence or Misconduct may Report it to the College, law enforcement, or both.
15. An anonymous Report, or a Report made by a witness to Sexual Violence or Misconduct, must follow these Reporting procedures. These Reports will be included in the College's records and will inform campus safety efforts. The College may be unable to conduct an investigation if the Survivor does not wish to participate in the process.

#### *VCC Internal Report and Investigation*

16. College Members who wish to make a Report of Sexual Violence or Misconduct must contact the Department of Safety, Security, and Risk Management.

17. Survivors may request assistance from a support person in Reporting Sexual Misconduct or Violence. Individuals may elect the support person of their choice, regardless of whether they have a relationship with the College and so long as this role does not place the support person in a conflict of interest.
18. The College will respond promptly to all Reports of Sexual Violence or Misconduct made under this policy.
19. The Department of Safety, Security, and Risk Management will respond to a filed Report of Sexual Violence or Misconduct by:
  - a. Conducting an initial review of the allegation, in collaboration with Human Resources as required, to determine whether the incident falls within the scope of the Policy, and if so, to coordinate and oversee any internal investigation. If the allegation does not fall within the scope of this Policy, the Department of Safety, Security, and Risk Management may refer the Complainant to a more relevant policy and/or Collective Agreement process for their complaint;
  - b. If applicable, and with the consent of the Survivor, overseeing and coordinating any investigation with law enforcement;
  - c. If necessary, conducting a risk assessment; and
  - d. As necessary, ensuring appropriate Interim Measures are taken and Accommodations are put in place.

#### Interim Measures and Accommodations

20. Where appropriate to do so, the College may put Interim Measures and/or Accommodations into place pending the disposition of the complaint. All such measures are to be non-punitive in nature. Where the complaint involves employees of the College, any Accommodations or Interim Measures will be in accordance with the relevant Collective Agreement.
21. Interim Measures and Accommodations seek to protect the safety of all parties involved and to protect the integrity of the investigation process. The need for Interim Measures will be determined on a case-by-case basis by the appropriate College authority taking into account the nature of the allegations and the circumstances of each situation.
22. The provision of Accommodations and/or use of Interim Measures in no way determine the Respondent's culpability. Any Interim Measures implemented will be designed to have the least disruptive impact on the Respondent.
23. Interim Measures may include:
  - a. Alteration of the academic schedule of any Student involved in the Report;
  - b. A No-Contact requirement;
  - c. Restricting a Respondent's access to some College facilities;
  - d. Temporary, non-disciplinary leave of a Respondent;
  - e. Involuntary withdrawal; and
  - f. Any other Interim Measures as may be determined by the College.

24. Accommodations may include:
  - a. Alteration of the academic schedule of any Student involved in the Report;
  - b. Academic or workplace accommodations;
  - c. Assignment extensions;
  - d. Withdrawal from courses without penalty;
  - e. Offering distance learning where possible;
  - f. Any other Accommodations as may be determined by the College.
25. When the incident involves police or other internal or external investigations, Interim Measures may remain in effect until all relevant investigations are concluded.

#### Internal Investigation Procedures

26. All College investigations will uphold the principles of Procedural Fairness and Natural Justice, and protect the rights of both the Survivor and the Person Accused/Respondent. Any determinations are based on a Balance of Probabilities.
27. If the Person Accused/Respondent is a Student, the investigator will be a delegate of the Vice President, Academic. The investigator is usually a member of the Department of Safety, Security, and Risk Management.
28. If the Person Accused/Respondent is a College employee, the investigator will be a delegate of the Vice President, People and Culture.
29. An investigation of a Report will commence as soon as reasonably possible following receipt of a Report.
30. The Survivor and the Person Accused may have an advisor, advocate, union representative, or support person present during the investigation process. A support person's role is to provide emotional support. A support person, other than an advocate, may not act instead of a Complainant, Respondent, or witness. Information must come directly from the Complainant, Respondent, or witness.
31. The Investigator will determine an appropriate process for the investigation, which may include reviewing relevant documents, obtaining written submissions, or meeting with the Survivor and the Respondent and any witnesses deemed to be relevant by the Investigator.
32. In the course of the investigation, the Person Accused/Respondent will be provided all relevant information, data, and evidence regarding the complaint and will be given an opportunity to respond in full.
33. The investigator will prepare a confidential report that will be provided to the Vice President, Academic (if the Survivor or Person Accused/Respondent is a Student), the Vice President, People and Culture (if the Survivor or Person Accused/Respondent is an Employee), or the Board Chair (if the Survivor or Person Accused/Respondent is a Board Member), and will normally include the following:
  - a. Findings of fact;

- b. An initial finding as to whether, on a Balance of Probabilities, Sexual Violence or Misconduct has occurred;
  - c. Where applicable, an initial finding as to whether the complaint is frivolous or vexatious;
  - d. Recommendations including any remedial steps to assist in better ensuring a work and learning environment free from Sexual Violence or Misconduct; and
  - e. Recommendations regarding responsive action, including disciplinary measures if any.
34. The appropriate Vice President will make a determination based on the investigator's report and the Balance of Probabilities as to whether or not Sexual Violence or Misconduct has occurred. If the complaint is substantiated the College may impose sanctions that are both disciplinary and/or non-disciplinary in nature and which provide a safe environment for the Survivor and College community at large, taking into account relevant policies and procedures and Collective Agreement requirements including:
- a. Conditions on the exercise of any College privilege;
  - b. Immediate suspension of any College privilege;
  - c. Taking the necessary action to remove the Respondent from campus; and
  - d. Taking any other action deemed appropriate in the circumstances, up to and including termination of employment, suspension or expulsion.
35. If the complaint is not substantiated any Interim Measures will be lifted and the Respondent will be returned to full status. This does not preclude the Respondent being further investigated and/or sanctioned upon the introduction of new information or evidence. The Survivor may still access support services through the College.
36. The Vice President or their Delegate will inform the Survivor and Person Accused/Respondent in writing of the outcome of the investigation with detail, up to what is permitted under individuals' privacy and confidentiality rights.

#### Responsive or Disciplinary Measures

37. Where the Respondent is a Student and is determined to have violated the Policy, responsive or disciplinary measures will be in accordance with the Student Code of Conduct (Non-Educational) Policy and Procedures.
38. Where the Respondent is a College employee and is determined to have violated the Policy, responsive or disciplinary measures will be in accordance with the applicable terms and conditions of their employment or Collective Agreement.
39. Failure to abide by the imposed sanctions is considered to be a further violation of the Policy. Breach of sanctions may lead to the imposition of new or escalated sanctions up to and including suspension and expulsion, or termination, or measures as outlined in applicable Collective Agreements.

#### Right to Withdraw a Report

40. At any time in the process, the Survivor has the right to withdraw the Report without consequences to their College status and activities. However, the College may continue to act on the incident identified in the Report to comply with its legal obligations to prevent

continuing harm or the endangerment of people under 19 years of age. In the event that the College is required by law to report the incident of Sexual Violence or Misconduct to legal authorities or outside governing bodies, the Survivor will be advised of this requirement.

41. A Survivor who withdraws a Report may still access the College's support services and any Accommodations put in place.
42. A Survivor may decide at any time to make amendments to their initial Report before a final decision has been made.

### Appeals

43. A Respondent may appeal the imposition of a Responsive or Disciplinary Measure from the College.
44. Grounds for an appeal are limited to the following:
  - a. The investigation lacked procedural fairness; or
  - b. There is relevant new information that was not available at the time the investigation took place and the decision was made and that may have influenced the outcome.
45. Where the Respondent is a Student, appeals to Disciplinary Measures must follow the appeal process outlined in the Student Code of Conduct (Non-Educational Matters) Policy and Procedures.
46. Where the Respondent is a College employee any disciplinary action taken as a result of Sexual Violence or Misconduct may be subject to grievance under the relevant Collective Agreement, or, where the College Member is not covered by a Collective Agreement, appealed to the President. Any decision by the President respecting an appeal under the Policy and these Procedures will be final.

### Retaliations

47. The College will not tolerate any retaliation, directly or indirectly, or threats of retaliation against anyone who Discloses or Reports, or who participates in a process that responds to a Report. Members of the College community who are found to have engaged in such conduct will be subject to sanctions and/or discipline, up to and including Student suspension from the College or termination of employment.
48. No individual shall be penalized in any way for making a Disclosure or Report, or giving evidence in an investigation regarding a claim of Sexual Violence or Misconduct, unless the claim proves to be made in bad faith or is frivolous or vexatious.

### Records, Confidentiality, and Privacy

49. The Department of Safety, Security, and Risk Management will maintain case records and confidential files of all reported incidents involving students.

50. Human Resources will maintain case records and confidential files of all reported incidents involving employees.
51. All records and correspondence pertaining to the investigation will be maintained in accordance with the College's Records Management Policy and Procedures.
52. The privacy of all College Members involved in any complaint of Sexual Violence or Misconduct will be protected to the furthest extent possible and in accordance with the *Freedom of Information and Protection of Privacy Act*.

**RELATED POLICY**

Refer to A.3.10 Sexual Violence and Misconduct Policy



## Appendix A Resources

### **Internal Support Resource List**

#### **VCC Counselling Services**

Free, confidential counselling services for VCC Students.

Broadway Campus: Building A, Level 4  
Monday, Tuesday, Thursday and Friday: 9 a.m. – 4 p.m.  
Wednesday: 11 a.m. – 7 p.m.

Downtown Campus: Pender Street Entrance, Level 1  
Monday – Friday: 9 a.m. – 4 p.m.

Phone: 604.871.7000, option 2 or stop by one of the offices.

Book online: <http://www.vcc.ca/services/services-for-students/counselling/>

#### **Students' Union of VCC - Student Advocate**

Assistance for VCC Students who feel they have been treated unfairly by a College Employee or need assistance with College policies or procedures.

Broadway Campus: Building A, Room 2662  
604-871-7000 ext. 7336

Downtown Campus: Room 358  
604-871-7000 ext. 8467

Email: [advocacy@suvcc.ca](mailto:advocacy@suvcc.ca)

Web: <http://suvcc.ca/>

#### **VCC Arbiter of Student Issues**

Helps students resolve conflict or deal with complaints under VCC Policy, including issues relating to harassment on Campus.

Broadway Campus: Building A, Student Services Area, Room 4017  
Tuesday - Friday

Email: [tmarks@vcc.ca](mailto:tmarks@vcc.ca)

Phone: 604-871-7000 ext. 7040

#### **VCC Safety, Security and Risk Management**

Helps students solve problems related to their safety and security. Conducts investigations in Sexual Violence or Misconduct.

Downtown Campus: Room 236  
Phone: 604-871-7000 ext. 8361

Broadway Campus: Building A, Level 2  
Phone: 604-871-7000 ext. 5020

Web: <http://www.vcc.ca/services/current-students/security--risk-management/Emergency>

**VCC Human Resources**

Address: Building A, 5th Floor (Broadway Campus)  
Phone: 604-871-7000 ext. 7069 (Director, Human Resources)  
Web: <http://www.vcc.ca/about/college-information/careers/contact-hr/>

**Canadian Union of Public Employees Local 4627**

Web: <http://www.cupe4627.com/>  
Email: [cupe4627@cupe4627.com](mailto:cupe4627@cupe4627.com)  
Broadway Campus: Room 3304  
Phone: 604-871-7000 ext. 7043  
Downtown Campus: Room 942  
Phone: 604-871-7000 ext. 8650

**Vancouver Community College Faculty Association**

Web: <http://vccfa.ca/>  
Email: [info@vccfa.ca](mailto:info@vccfa.ca)  
Phone: 604-688-6210  
Address: 401 – 402 West Pender Street Vancouver, BC V6B 1T6

**Morneau Shepell - Employee and Family Assistance Program**

24 hour line providing information and support to any work, health or life concern  
Web: <https://www.workhealthlife.com/>

**External Support Resource List****WAVAW Rape Crisis Centre**

Services and referrals for self-identified women who have been sexually assaulted.

Web: <http://www.wavaw.ca>  
24-hour Crisis Line: 604-255-6344  
Toll-Free: 1-877-392-7583  
Office Line: 604-255-6228 (public education requests or general questions about WAVAW)

**Battered Women's Support Services Society**

Services for self-identified women who have experienced relationship violence.

Web: <http://www.bwss.org>  
Crisis & Counselling: 604-687-1867  
Toll-Free: 1-855-687-1868

**Vancouver and Lower Mainland Multicultural Family Support Services Society (VLMFSS)**

Assistance for immigrant and visible minority women and their families who are experiencing family violence. Services offered in many different languages.

Web: <http://www.vlmfss.ca>  
Email: [againstviolence@vlmfss.ca](mailto:againstviolence@vlmfss.ca)  
Phone: 604-436-1025

**BC Society for Male Survivors of Sexual Abuse**

Support for self-identified men and boys who have been sexually assaulted.

Web: <http://bc-malesurvivors.com/>  
Vancouver Phone: 604-682-6482  
Surrey Phone: 778-222-6885

**Catherine White Holman Wellness Centre**

Free counselling, health services, and legal information for transgender and gender non-conforming people. Clinics are open on the second and fourth Sunday of every month.

Web: <http://www.cwhwc.com/>  
Email: [contactus@cwhwc.com](mailto:contactus@cwhwc.com)  
Phone: 604-442-4352

**Vancouver General Hospital**

Sexual Assault Service for sexual assault survivors of all genders, within the past seven days. Go to VGH Emergency Department and ask for the Sexual Assault Service. Nurses and doctors are on-call 24 hours a day. Care Card is not required.

Address: 920 10th Avenue West, Emergency Entrance

**YWCA of Metro Vancouver**

The Domestic Violence Outreach Worker provides one-to-one support and outreach in the Downtown Eastside, including safety planning for women who have experienced violence in a relationship.

Web: <http://www.ywcavan.org>  
Phone: 604-216-1653

**Legal Educator at YWCA**

Provides legal support to women and answers questions about legal issues.

Web: <http://www.ywcavan.org>  
Email: [avollans@ywcavan.org](mailto:avollans@ywcavan.org)  
Phone: 604-734-5517 ext. 2235

**VictimLINK**

24-hour service, in many different languages providing information, crisis support, and referrals to all victims of crime.

Web: <http://www.victimlinkbc.ca>  
Email: [VictimLinkBC@bc211.ca](mailto:VictimLinkBC@bc211.ca)  
Toll-Free 1-800-563-0808  
Text message: 604-836-6381  
TTY (for Deaf & hard-of-hearing people): 604-875-0885

**Deaf, Hard of Hearing & Deaf-Blind Well-Being Program**

The Well-Being Program provides mental health services for Deaf, Hard of Hearing & Deaf-Blind people throughout the province of BC.

Web: [deafwellbeing.vch.ca](http://deafwellbeing.vch.ca)  
Voice: 778-819-0951  
Text: 778-987-4174  
TTY: 604-456-0901  
Email: [wellbeing.staff@vch.ca](mailto:wellbeing.staff@vch.ca)