

## POLICY AND PROCEDURES

<b>POLICY NAME:</b> <b>Sexual Misconduct</b>	<b>POLICY NUMBER:</b> 1.3.3	<b>CATEGORY:</b> Administration and Operations
<b>RESPONSIBLE EXECUTIVE:</b> President	<b>APPROVAL AUTHORITY:</b> Board of Governors	<b>EFFECTIVE DATE:</b> MARCH 26, 2021
<b>NEXT FULL REVIEW DATE:</b> March 25, 2026	<b>REVISED:</b> OCTOBER 30, 2023	<b>REPLACES:</b>

### PURPOSE

This policy affirms Coquitlam College’s (the College) commitment to fostering a safe and supportive learning and work environment for all members of the College community and establishes the protocols to be followed in the case of a disclosure or complaint of sexual misconduct involving a student.

### SCOPE

The College represents a diverse academic learning environment and is accountable to the legislation and regulations from various provincial and federal government agencies. This policy is intended to address a variety of requirements and guidelines pertaining to sexual misconduct for all students.

This Policy applies to all students and staff and addresses sexual misconduct involving students who are:

- participating in courses and programs at the College campus or in another off-campus or online learning environments
- representing the College in any College-related activity or event, either on or off campus

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

### POLICY STATEMENTS

1. Sexual violence and misconduct is unacceptable and will not be tolerated by the College.
2. Students who come forward who allege having experienced sexual misconduct will be respected in their choices as to how to proceed. Students will be entitled to decide whether they wish to access available services, which services they believe will be most beneficial, and whether or not to file a complaint with the College or file a report to police.
3. The College will provide appropriate assistance and support to students who are affected by sexual violence and misconduct.
4. The College will engage in education and prevention activities relating to sexual violence and sexual misconduct.

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5. All individuals involved in a complaint of sexual misconduct will be treated in accordance with the principles of procedural fairness and natural justice.
6. The College will make every effort to protect the confidentiality of individuals named in a complaint.
7. Individuals confirmed to have committed an act of sexual violence and sexual misconduct will be held accountable by the College and will be subject to disciplinary action up to and including expulsion.
8. Any form of retaliation and/or spreading or providing malicious or false information against any person who makes a disclosure, complaint, or provides evidence in an investigation is considered harassment. The College will address these matters under the Bullying and Harassment policy.

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9. The College will provide appropriate education and training of this policy to staff and students.
10. Information regarding internal and external resources and processes that are in place to inform and support the College community will be available to staff and students.
11. During the investigation process, all participants will be directed not to discuss the situation or process with others. This does not limit students from seeking support or sharing their story, but rather is intended to respect the dignity and rights of all individuals involved in the process, as well as the integrity of the process until it is concluded.
12. The records of all complaints, decisions and outcomes will be maintained as confidential records in the Student File in the Registrar's Office.

### Disclosure

13. A student who has experienced sexual violence may choose to confide in any member of the community. Members of the College community should be prepared to provide a compassionate and reassuring response. A supportive response involves:
  - a. listening with acceptance and without judgment
  - b. communicating to the individual that they are not responsible for the incident
  - c. helping the individual to identify and access available on- or off-campus services, including emergency medical care if needed, and/or contacting police or campus security if requested
  - d. respecting the right of the individual to choose the services they feel are most appropriate
  - e. respecting the right of the individual to independently decide whether to report the incident to police
  - f. respecting the individual's choice as to what and how much to disclose about their experience

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- g. making every effort to respect confidentiality and anonymity
14. Any person who makes a disclosure can choose to file a complaint later, if they wish.
15. Any instructor or staff member who receives a disclosure and is unsure about their responsibility in the event of a disclosure or complaint, should seek advice from a male and female senior counsellor member on how best to support the Student.
16. A disclosure is not the same as a complaint and does not normally serve to initiate an investigation or other process unless the College believes one of the following circumstances applies:
- a. a person is at risk of self-harm or of harming others
  - b. there is an imminent risk of harm to the College Community and/or the broader community
  - c. the Disclosure involves Sexual Violence or Sexual Misconduct by an employee or representative of the College
  - d. a person under the age of 19 is endangered
  - e. disclosure is otherwise required by law

### **Filing a Complaint**

17. Any person who experiences or witnesses sexual misconduct involving a student may file a complaint with the College. The College will provide support to Complainants who request assistance with this process.
18. The complaint should be in writing and include the following information when possible:
- a. name and contact information for the Complainant
  - b. a description of the incident
  - c. name of the alleged respondent
  - d. names of potential witnesses
19. The President or delegate will respond to all complaints of sexual misconduct by:
- a. Conducting an initial review of the allegation to determine whether the incident falls within the scope of this policy:
    - i. If yes, the President or delegate will initiate an internal investigation.
    - ii. If no, the matter may be referred to a more relevant policy or process.
  - b. Advising the Complainant about relevant support services.
  - c. Informing the Complainant about the course of action and anticipated timelines for addressing the complaint, including investigations if necessary.
  - d. Establishing accommodations or interim measures if necessary.
20. Third-party complaints, from witnesses to an event, may be accepted at the discretion of the President or delegate, but consideration will be given to the desires of the person(s) directly harmed by the incident.

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21. Anonymous complaints will not be investigated, but those wishing to make anonymous disclosures will be offered support services and information about all available options.
22. At any time in the process, the Complainant may withdraw the complaint without consequence. However, the College may be required to act on the incident identified in the complaint to comply with legal obligations.
23. If the College is required by law to report an incident of sexual misconduct to legal authorities or outside governing bodies, the Complainant will be notified.
24. If a complaint is withdrawn, the Complainant will continue to have access to the College's support services and any accommodations or interim measures put in place.

### **Accommodations and Interim Measures**

25. Accommodations and interim measures are available to any member of the College community who has experienced or witnessed sexual violence, including the respondent, regardless of whether they wish to disclose or file a complaint.
26. Accommodations may include but are not limited to switching course sections, deferring exams, or other academic accommodations.
27. Interim measures are put in place to protect the safety and wellbeing of staff, students and community members, and may include a ban from campus property or other necessary restrictions. Interim measures:
  - a. do not presume guilt
  - b. may be imposed immediately upon receipt of a disclosure or complaint
  - c. may be imposed or removed at any time during the resolution of the complaint
  - d. may remain in effect until the conclusion of the process

### **Report to Police**

28. Students may report their allegations through the criminal justice or victim services system by contacting the local police detachment directly.
29. Any individual who chooses this option may contact the President or Delegate or Campus Security for assistance in making a report to the police.
30. The College will cooperate with any criminal investigations.

### **Internal Investigation**

31. Investigations will be completed by an internal Investigator, or an external Investigator if there is a perceived conflict of interest or when an internal Investigator is not available.

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32. The purpose of the investigation is to gather facts and statements relevant to the behavior or incident in question. The Investigator will determine an appropriate process for the investigation, which must include:
  - a. a review of relevant information and documents
  - b. obtaining written submissions
  - c. private meetings with the complainant, the respondent, or any witnesses deemed relevant to the investigation. Individuals may choose to have a support person present at the meeting.
33. If the respondent fails to cooperate with the investigation or to be reasonably available for a meeting, the investigator will proceed without the input of the respondent.
34. The Investigator will issue a written report to the President or delegate which will include:
  - a. an overview of the complaint and investigation process
  - b. the determination of whether or not, based on a balance of probabilities, a violation occurred
  - c. recommendations for disciplinary measures if applicable
35. The President or delegate will inform the respondent in writing of the decision and will include any disciplinary measures(s). A copy will be sent to the Registrar to be placed in the Student File.
36. The Complainant will be notified of the outcome of the complaint and the decision reached.

### **Disciplinary Measures**

37. Disciplinary measures may be imposed for the purpose of providing a safe environment for the Complainant and the College community at large, and include but are not limited to:
  - a. Warning or reprimand: A verbal or written warning or reprimand.
  - b. Student Conduct Contract: A formal written contract, signed by the Respondent to confirm agreement to its terms, specifying conditions and standards of conduct the Respondent is required to abide by. Failure to meet the requirements of this contract may lead to further disciplinary or corrective measures.
  - c. Restriction or prohibition of access or use: Conditions that are imposed to limit or ban, for a specified period of time, a student's right to access or use the College's lands, equipment, facilities, services, or other activities held by, on, or in association with the College.
  - d. Probation: Provisions that are put in place to monitor academic or behavioural activity and/or performance. A probation letter will be issued to the student and will include the requirements that must be met in order to continue in a course, program, activity or as a student at the College, and the timelines for meeting the requirements. The determination of requirements

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and the timeframe are specific to the situation. Probation is considered complete if the student meets all requirements within the specified period of time.

- e. Suspension: Preventing participation in academic and other activities at the College for a specified period of time. It may also include restricting access to College facilities.
- f. Expulsion: The removal from all College programs, courses and activities in which a student is registered or participates in. Restrictions may be placed on the Student's ability to register in a College course or program in the future.
- g. Discretionary Measure: Any other disciplinary or corrective measure that the College determines is warranted under the circumstances, such as taking the necessary action to immediately remove the person the campus.

### DEFINITIONS

Balance of probabilities: The standard of proof used in investigations and hearings is that the alleged violation is "more likely than not" to have occurred based on the evidence.

Complainant: An individual who has experienced directly or indirectly as a witness an act of sexual violence and misconduct and who files an official written complaint with the College.

Complaint: A formal written statement about a situation or incident of sexual violence and misconduct. Complaints are filed with the President or delegate from either the individual filing the complaint, or from a counsellor. Filing a complaint will usually initiate an internal investigation of the alleged incident. The person filing the complaint will be referred to as the 'Complainant'. A complaint can be filed by the individual who experienced the sexual misconduct or by a witness to the sexual misconduct.

Consent: The clear, ongoing and voluntary agreement to engage in sexual activity. Consent is informed, freely given, and actively communicated as demonstrated by objectively assessed words or conduct. For further clarity, consent:

- a. is never assumed or implied; it is not silence or the absence of "no"
- b. can be withdrawn at any time
- c. cannot be assumed from previous consent to the same or similar activities
- d. cannot be given by a person who is impaired by alcohol or drugs
- e. cannot be given by a person who is asleep or unconscious
- f. can never be obtained through threats, coercion or other pressure tactics
- g. can never be obtained if someone uses or abuses a position of trust, power or authority over another person

Disclosure: The communication about an experience of sexual violence and sexual misconduct.

Investigator: A College staff member who conducts an investigation of student misconduct complaints and/or reports.

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Respondent: The individual against whom a complaint has been made and who is alleged to have engaged in conduct that violates this Policy.

Sexual Misconduct: An umbrella term that encompasses a broad range of behaviour. It means a sexual act or an act targeting a person's sexuality, gender identity or gender expression that is committed, threatened or attempted against a person without the person's Consent. Such behaviour may or may not involve physical contact. It includes but is not limited to the following:

- a. Coercion: Using manipulation tactics including threats, bribes, guilt, etc. to persuade another person to engage in sexual activity.
- b. Cyber Stalking: The repeated, unsolicited, threatening behaviour of a sexual nature by a person or group using cell phone or internet technology to bully, harass, and intimidate others. Such harassment can take place in any electronic environment where communication with others is possible, such as on social networking sites, on message boards, in chat rooms, through text messages, through email, or other electronic means.
- c. Sexual assault: Any form of sexual contact that occurs without any freely given consent. Sexual assault is characterized by a broad range of sexual behaviours that involve the use of force, threats, or control towards a person. It is carried out in circumstances in which the person has not freely consented or is incapable of consenting to the act. Sexual assault also includes the use of alcohol and/or drugs to intentionally sedate or incapacitate another individual for the purpose of committing a sexual assault.
- d. Sexual Exploitation: A person who misuses their position of trust and authority over a young person for sexual purposes, including inviting, counselling, or inciting touching, either directly or indirectly.
- e. Sexual Harassment: The use of unwanted remarks, behaviours, or communications of a sexually orientated nature that are offensive, intimidating or humiliating, and where the conduct or comment is made by a person who knows or ought to reasonably know that the conduct or comment is unwanted or unwelcome. It may be verbal, written, or visual. Examples of sexual harassment include, but are not limited, to the following:
  - i. remarks or innuendos regarding an individual's appearance, clothing or sexual life
  - ii. Unwelcome questions or sharing a personal information regarding a person's marital status, sexuality, sexual activity, sexual orientation, or gender/transgender issues
  - iii. Persistent, unwelcome sexual flirtations, advances, propositions, invitations or requests
  - iv. Sexually suggestive, obscene or degrading comments or gestures
  - v. Displaying or circulating sexually graphic or derogatory pictures or written materials
  - vi. Use of online activities such as email, text messaging or social networking to initiate or participate in any of the above behaviours
  - vii. Leering, ogling or sexually oriented gestures
  - viii. Inappropriate and unnecessary touching

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- f. Stalking: Actions by a person that instill fear in another person or threaten a person's safety or mental health, including threats of harm to a person's friends and/or family, and includes, but is not limited to:
- i. non-consensual communication (face to face, phone, email, social media)
  - ii. surveillance
  - iii. sending unsolicited gifts
  - iv. "creeping" via social media/cyber stalking
  - v. uttering threats
- g. Voyeurism: The non-consensual recording or observation, in-person, electronically, or otherwise, of another individual who, in the circumstances, presumes 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.

Student: A person who has completed an application to the College and has received a student number.

Student File: A record held by the Office of the Registrar, that contains a student's general academic information, including admission information, study permits, grades, attendance, standardized assessment reports, appeal reports and decisions, and other information from a student's time at the College.

### Related Documents

- [Appendix A: Report Form](#)
- [2.2.2 Student Non-Academic Conduct Policy](#)
- [3.1.4 Prevention of Bullying and Harassment](#)
- [Criminal Code of Canada](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Human Rights Code](#)
- [BC Handbook for Action on Child Abuse and Neglect, 2017](#)
- [Safe and Caring School Communities, Ministry of Education, November 2019](#)
- [Procedural Fairness Best Practice Guidelines for Independent Schools, 2007, Federation of Independent School Associations British Columbia \(FISABC\)](#)