

SEXUAL MISCONDUCT

Number:	1.3.3
Responsible Executive:	President
Approval Authority:	Board of Governors
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Revised Date:	
Category:	Administration

PURPOSE

This Policy affirms Coquitlam College's (the College's) commitment to providing a safe, respectful, and supportive environment. The College has a zero-tolerance policy for sexual misconduct. The procedures for disclosing, reporting and investigating incidents of sexual misconduct are established and set out in this Policy.

SCOPE

This Policy applies to all students and staff of the College and to all College related areas, including but not limited to:

- On any College campus or property.
- Within any vehicles owned by the College, or vehicles being used for/during a College-related event.
- Off College property in connection with any event or activity organized by or primarily attended by members of the College.
- In any other locations/circumstances that may influence the safe learning and working environment of the College.

For the purposes of College investigations, outcomes and corrective action, including discipline, this Policy applies only to sexual misconduct by a student or staff member against another student or staff member. The College does not have the jurisdiction to investigate or implement corrective action on an individual who is not a student or staff member.

POLICY STATEMENTS

1. The College is committed to:
 - a. Promoting a safe, inclusive, and respectful learning and working environment free from sexual misconduct at all times.
 - b. Creating a space where students and staff who have experienced sexual misconduct feel safe to disclose and seek support from the College.
 - c. Respecting the rights of those who disclose sexual misconduct to make their own decisions about accessing support services, making a report, or pursuing external processes such as criminal or civil actions.
 - d. Protecting the confidentiality of complainants and respondents, to the extent possible.
 - e. Providing sexual misconduct awareness, prevention and response training for staff and students.
2. The College will provide any student or staff member who has experienced sexual misconduct the

right to:

- a. Be treated with dignity and respect.
- b. Have their privacy respected and protected, within reasonable limits.
- c. Be informed about on and off campus services and resources.
- d. Access available services and to choose those services they believe would be most beneficial.
- e. Decide whether to disclose, make a report to the College, 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. All individuals involved in an incident of sexual misconduct will be treated in accordance with the principles of procedural fairness and natural justice.
4. Respondents who have been found to be responsible for committing an act of sexual misconduct will be held accountable by the College and will be subject to disciplinary measures up to and including expulsion of a student or termination of employment.
5. 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 explicitly prohibited. Anyone who is found to engage in the aforementioned behaviour will be subject to sanctions and/or discipline up to and including expulsion of a student or termination of employment.

PROCEDURES

Immediate Assistance and Options for Complainants

6. The College encourages, but does not require, individuals impacted by sexual misconduct to seek immediate assistance from a medical service provider, the police, a College staff member, College Security, and/or community resources.
7. The College will maintain and make available a list of community resources for all students and staff who have experienced sexual misconduct or been involved in an allegation/investigation of sexual misconduct.
8. Complainants have a right to report sexual misconduct through the criminal justice system by contacting the police. The College will lawfully cooperate with any criminal investigation.

Disclosures and Reports

9. An individual who has experienced sexual misconduct has the option to make a disclosure or to file a report.
 - a. A **disclosure** is when a Complainant shares information of an incident with a student or staff member of the College. A disclosure does not automatically trigger an investigation but allows the student or staff member to provide support and resources to the Complainant in confidence.
 - b. A **report** is a formal statement which initiates an investigation by the College into an allegation of sexual misconduct.

10. Individuals who receive a disclosure or report must make every reasonable effort to protect confidential information and maintain confidentiality. However, there are limits to confidentiality. The College may need to disclose information or proceed with an investigation in certain circumstances as required by law and as outlined in section 13 below.
11. While there is no time limit to an individual disclosing or reporting sexual misconduct or accessing support, the College encourages individuals to report as soon as possible in order to assist with the investigation process.

Disclosure

12. A Complainant may choose to disclose an incident of sexual misconduct to any student or staff member of the College. It is not the role of the person who receives the disclosure to initiate an investigation or implement any accommodations. If a student or staff member of the College receives a disclosure of sexual misconduct, they should:
 - a. Focus on listening, giving support, and connecting the Complainant with resources to meet their immediate needs (e.g. accessing available on or off-campus services, including emergency medical care if needed, and/or contacting police or College security if requested).
 - b. Recognize that experiencing and disclosing sexual misconduct can be traumatic and the ability to recall the events may be impaired.
 - c. Advise Complainants of College policy and procedures.
 - d. Respect the Complainant's right to choose the services they feel are most appropriate and to decide whether to report to the College and/or contact police.
 - e. Not disclose information to others or report the incident to the police or other students or staff without the express consent of the Complainant or unless required for the reasons outlined below.
13. To the greatest extent possible, the College will respect a Complainant'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 Complainant's wishes and confidentiality will be prioritized. However, in certain circumstances, the College 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 students or staff.
 - b. There is judged to be an imminent risk of harm to the College community and/or the broader community through continued sexual 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.
 - ii. a person under 19 years of age is endangered.
 - d. Evidence of sexual misconduct is available in the public domain (e.g., videos/images shared publicly).
14. In the circumstances described above, the College may choose to initiate an investigation in which case the individual who disclosed may choose whether or not to participate in the investigation.
15. In the event that the College is required by law to report an incident of sexual misconduct to legal authorities or outside governing bodies, the Complainant will be advised of this requirement.

Reports

16. Anyone who experiences or witnesses sexual misconduct is encouraged to report to the College. The College also encourages the Complainant to speak with the authorities where appropriate.
17. An anonymous report, or a report made by a witness to sexual misconduct, must follow these reporting procedures. The College may be unable to conduct a fullsome investigation if the Complainant does not wish to participate in the process. However, the College will at all times takes steps to ensure the safety of the students and staff of the College.
18. Students or staff who wish to make a report of sexual misconduct should contact the Human Resources Coordinator. Reports can be made in person, through phone or by email.
19. Complainants may request assistance from a support person in reporting sexual misconduct.
20. The College will respond promptly to all reports of sexual misconduct made under this policy and aims to acknowledge the receipt of a report within one business day after the report is made. Any investigation resulting from a report will be conducted in as timely a manner as possible.
21. Reports of sexual misconduct will be responded to by:
 - a. Conducting an initial review of the allegation 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 Complainant may be referred to a more relevant policy process.
 - b. ensuring appropriate interim measures and/or accommodations are put in place, if necessary.
22. The College will provide the Respondent with details of the report. The Respondent will be given an opportunity to respond to the allegations.
23. A Complainant may decide at any time to make amendments to their initial report before a final decision has been made. The Respondent will be informed of any amendments to the report and given an opportunity to respond to the amendments.
24. Right to Withdraw a Report:
 - a. At any time in the process, the Complainant 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 to comply with its legal obligations to prevent continuing harm or the endangerment of people under 19 years of age, or to act in the best interests of all members of the College Community.
 - b. A Complainant who withdraws a report may still access the College's support services and agreed upon Accommodations.
 - c. In the event a report has been withdrawn and an investigation has been closed, any interim measures put in place for the Respondent will be removed.

Interim Measures and Accommodations

25. Where appropriate to do so, the College may put interim measures and/or accommodations in place pending the outcome of an investigation. All such measures are to be non-punitive in nature.
26. Interim measures and accommodations seek to protect the safety of all parties involved and the integrity of the investigation process.
27. The need for interim measures will be determined on a case-by-case basis and will consider the nature of the allegations and the circumstances of each situation.

28. The provision of accommodations and/or use of interim measures in no way determines the Respondent's culpability. Any Interim Measures implemented will be designed to have the least disruptive impact on the Respondent.
29. 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 or withdrawal of a Respondent.
 - e. Any other Interim Measures as may be determined by the College.
30. 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 or working where possible.
 - f. Any other Accommodations as may be determined by the College.
31. When the incident involves police or other internal or external investigations, Interim Measures and Accommodations may remain in effect until all relevant investigations are concluded.

Internal Investigations

32. All College investigations will protect the rights of both the Complainant and the Respondent. At no time during the investigation or any appeal process will the Complainant be required to be present at the same time and place as the Respondent.
33. Investigations will be completed by an individual who has been trained in investigation processes (the 'internal investigator'). If there is a perceived conflict of interest or an internal investigator is unavailable, the College may retain an external investigator.
34. The Complainant and the Respondent may have a support person present during the investigation process. A support person's role is to provide emotional support. A support person may not act on behalf of the Complainant or Respondent. Information must come directly from the Complainant, Respondent, or a relevant witness, with the exception of an instance where the Complainant or Respondent has legal counsel.
35. The Investigator will determine an appropriate process for the investigation, which may include reviewing relevant documents, obtaining written submissions, or meeting with the Complainant and the Respondent and any witnesses deemed to be relevant by the Investigator.
36. In the course of the investigation, the Respondent will be provided details of the accusation(s) made against them including the name of the Complainant and all relevant information/evidence regarding the complaint. The Respondent will be given an opportunity to respond in full. The Respondent will have access to relevant College resources to assist them in responding to the report.
37. After conclusion of the investigation, the investigator will prepare a confidential report that will be provided to the Chief Academic Officer or a Designate. The report will normally include:
 - a. Findings of facts.
 - b. An initial finding as to whether, based on a balance of probabilities, sexual 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 ensuring a work and learning environment free from sexual misconduct.
- e. Recommendations regarding disciplinary action.

38. A determination will be made based on the investigator's report as to whether sexual misconduct has occurred. If the report is substantiated, the College may take action that is both disciplinary and/or non-disciplinary in nature, and which aims to provide a safe environment for the Complainant and College community at large.

39. The Chief Academic Officer or a Designate will determine any appropriate action to be taken. This determination will be made on a case-by-case basis and will consider the nature of the allegations and the circumstances of each situation. Disciplinary and/or non disciplinary measure may include:

- 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.
- d. Taking any other action or discretionary measure deemed appropriate in the circumstances, up to and including expulsion of a student or termination of employment.

40. If the report is not substantiated, the Interim Measures implemented, if any, will be lifted. This does not preclude the Respondent being further investigated and/or sanctioned upon the introduction of new information or evidence. The Complainant may still access support services through the College.

41. The Complainant and Respondent will be informed in writing of the outcome of the investigation with detail and rationale, up to what is permitted under individuals' privacy and confidentiality rights.

42. Any reprisal or retaliation against a Complainant for bringing a report in good faith is explicitly prohibited.

Appealing a Disciplinary Measure

43. A Respondent may appeal the investigator's decision and any relevant Disciplinary Measure(s) to the President based on:

- a. The investigation lacked procedural fairness.
- b. There is relevant new information that was not available at the time the investigation took place that may have influenced the outcome.

44. The President will review reports, findings and recommendations and will make a final decision. The decision of the President will be final.

Records

45. The records of all reports, decisions and outcomes will be maintained in the confidential student/employee file and will be retained in accordance with the College's Records Management policy.

Definitions

Accommodation: The provision by the College of reasonable and appropriate academic, workplace or other measures that support the needs of an individual affected by sexual misconduct.

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.

Coercion: A form of sexual misconduct that includes unreasonable and persistent pressure for sexual activity. The use of emotional manipulation, blackmail, threats to the Complainant (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.

Complainant: A member of the College community who has experienced sexual misconduct and who files an official written complaint with the College.

Discretionary Measure: Any 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.

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

Expulsion: The removal of a student 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.

Indecent Exposure: A form of sexual misconduct that is the non-consensual exposure of one's genitals to another person for a sexual purpose.

Interim Measures: Temporary provisions that may be placed on a Respondent to limit contact with the Complainant while an investigation is conducted.

Investigator: The individual who conducts an investigation of student misconduct complaints and/or reports. The investigator may be an internal or external party, depending on the circumstances.

Respondent: The individual who is alleged to be responsible for causing harm by committing sexual misconduct in a disclosure or report.

Sexual Assault: A form of sexual misconduct that involves 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.

Sexual Exploitation: A form of sexual misconduct which includes any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes.

Sexual Harassment: A form of sexual misconduct that involves 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:

- Demanding a hug, kiss, date or sexual contact.
- Unwanted touching or demanding/asking to be touched.
- Use of derogatory language, sex-specific derogatory names, and/or comments related to a person's sexual appearance, characteristics or behavior.
- Sexual jokes, including jokes or material circulated by email.

- Spreading sexual rumours.
- Bragging about sexual prowess.
- 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.
- Unwanted questions about sexual history.

Sexual Misconduct: For the purpose of this policy, sexual misconduct is behaviour or action, and/or a continuum of behaviour or action that includes, but is not limited to indecent exposure, sexual assault, sexual exploitation, sexual harassment, coercion, stalking and voyeurism.

Stalking: A form of sexual misconduct that includes 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:

- Repeatedly following another person or anyone known by that other person from place to place.
- Repeatedly communicating directly or indirectly with another person or anyone known by that other person.
- Cyber stalking.
- Watching another person's home, commute, work location, classroom locations, or anywhere else a person known by that other person happens to be.
- Engaging in threatening conduct directed at another person or any member of that person's family.

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

Voyeurism: A form of sexual misconduct that includes 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.

RELATED RESOURCES

- Appendix A: Resources
- Child Abuse and Protection Policy 1.1.4
- Employee Professional Standards and Conflict of Interest 3.1.2
- Prevention of Bullying and Harassment Policy 3.1.4
- Personal Information and Protection of Privacy Policy 1.2.1
- Procedural Fairness and Appeals for Students Policy 3.1.3
- Student Non-Academic Conduct Policy 2.2.2
- Criminal Code, RSC 1985, c C-46
- Human Rights Code, RSBC 1996, c 210
- Personal Information Protection Act, SBC 2003, c 63
- 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)

Internal Support Resource List

Coquitlam College Advising Services

Academic advisors are available daily to assist students. Services are available in a variety of languages.

To speak with an Advisor, call **604-939-6633**: Monday – Thursday | 8:30 am to 5:30 pm (PST)
Friday | 8:30 pm to 3:30 pm (PST)

Coquitlam College Security

Helps students solve problems related to their safety and security.

Human Resources Coordinator

Address: 300 – 2920 Virtual Way, Vancouver, BC V5M 0C4
Email: hcorbett@coquitlamcollege.com
Web: <http://www.coquitlamcollege.com/>

External Support Resource List

Salal Rape Crisis Centre

Salal offers free-of-charge anti-oppressive, decolonizing, intersectional feminist support to survivors of sexual violence. Services are open to women, trans, Two-Spirit, non-binary, and gender diverse people.

Web: salalsvsc.ca
24-hour Crisis Line: 604-255-6344 Toll-Free: 1-877-392-7583

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
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
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
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
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
Voice: 778-819-0951 Text: 778-987-4174 TTY: 604-456-0901
Email: wellbeing.staff@vch.ca