

**Policy Number:** S-131

**Policy Name:** Sexual Violence or Misconduct Prevention and Response Policy

**Related Policies, Forms, and Procedures:**

**Date Written or Last Modified:** August 19, 2021

**Date Approved By Management Team:**

**Date Approved By Board of Directors:**

## **PURPOSE**

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This policy articulates **College for Arts and Technology's ("the College")** commitment to support students and other members of the college community who are affected by sexual violence or misconduct; to educate students and other members of its community on the prevention of sexual violence or misconduct; and to provide a fair and effective process for responding to and investigating allegations of sexual violence or misconduct. This policy is intended to make the campus safer and more responsive to the needs of victims/survivors.

This policy is guided by the following principles:

- College for Arts and Technology does not tolerate any form of sexual violence or misconduct.
- College for Arts and Technology strives to prevent sexual violence or misconduct and to respond effectively and in a timely manner when incidents do occur.
- College for Arts and Technology has a responsibility to create a safe and respectful campus environment.
- College for Arts and Technology endeavours to ensure victims/survivors are supported and treated with compassion; have access to safety planning; academic, work-related, and other accommodations; and on and off campus confidential support services.
- College for Arts and Technology respects the privacy and procedural fairness rights of the victims/survivors and alleged perpetrators.

The College strongly encourages all members of the college community to become knowledgeable about sexual violence or misconduct and about their rights and obligations under this policy.

## **SCOPE**

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1. This policy applies where:
  - a. An incident of sexual violence or misconduct is alleged to have occurred on the college campus, or off-campus and in connection with an event or activity sponsored, organized, led, or required by the College, including but not limited to off-campus activity that students are required to participate in for the successful completion of their studies (i.e., field trips, practicum placements); and
  - b. The alleged incident of sexual violence or misconduct involves a member of the college community or a person who was a member of the college community at the time of the incident.

2. If an alleged incident of sexual violence or misconduct does not meet the above criteria, the College may still take steps to mitigate the impact of the incident on the learning and working environment.
3. The College does not have jurisdiction to take disciplinary action against a person who is not a member of the college community or who is not currently affiliated with the college. However, under certain circumstances the College may be able to take other action, such as revoking a person's access to the campus or a college event.
4. This policy is separate from any criminal or civil proceedings. The College is not responsible for determining violations of criminal or civil law.
5. This policy is designed to complement and not conflict with the College's pre-existing staff and student policies.

## DEFINITIONS

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**Complainant:** A person who files a complaint. In some instances, the College may act as a complainant where it becomes aware of allegations of sexual violence or misconduct that, if true, would violate this policy but no person comes forward with a complaint, or where an investigation is required by law.

**Complaint:** A formal written statement containing allegations of sexual violence or misconduct or other violation(s) of this policy.

**Disclosure:** The communication to a College employee of an experience of sexual violence or misconduct. Disclosure on its own does not initiate an investigation, except where required by this policy.

**Respondent(s):** A person or persons alleged to have engaged in conduct that violates this policy.

**Sexual Violence or Misconduct:** Any sexual act or act targeting a person's sex, sexuality or gender identity or expression, whether the act is physical or psychological in nature, which is committed, threatened, or attempted against a person without the person's consent, including but not limited to:

- a. sexual assault.
- b. sexual exploitation.
- c. sexual harassment.
- d. stalking.
- e. indecent exposure.
- f. voyeurism.
- g. 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.
- h. the attempt to commit an act of Sexual Violence or Misconduct; or
- i. the threat to commit an act of Sexual Violence or Misconduct.

## POLICY STATEMENT

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1. College for Arts and Technology is committed to providing safe learning and working environments for all members of the college community. Sexual violence or misconduct undermines these objectives, violates the rights, personal dignity, and integrity of individuals, and is strictly prohibited under this policy.

2. The College recognizes its responsibility for addressing sexual violence or misconduct and for meeting the following ongoing commitments:
  - a. to implement and actively promote awareness and to educate members of the college community regarding sexual violence or misconduct and the issues addressed in this policy.
  - b. to promote learning and working conditions that seek to prevent or eliminate the potential for incidents of sexual violence or misconduct to occur on campus property or between members of the college community.
  - c. to support members of the college community who are affected by sexual violence or misconduct by reducing barriers to disclosure and to the filing of complaints regarding their experiences; responding to disclosures and complaints in a procedurally fair, efficient, and consistent manner; and providing academic, non-academic, and other supports as required.
  - d. to communicate the support services and resources available to members of the college community who may be directly or indirectly affected by Sexual Violence and Misconduct; and
  - e. to remedy situations where sexual violence or misconduct has been found to have occurred.
  
3. All persons who make a disclosure or file a complaint regarding an experience of sexual violence or misconduct can expect the College to provide the following:
  - a. compassion, dignity, and respect, including respect for their choice as to whether they wish to disclose or file a complaint regarding their experience.
  - b. timely assistance with safety planning.
  - c. timely information about available support services and resources.
  - d. timely consideration of appropriate academic, workplace or other accommodations.
  - e. information on the options for addressing an incident of sexual violence or misconduct, and the limits to confidentiality associated with each option; and,
  - f. where they do decide to file a complaint, a clear explanation of the investigation and decision-making process and a procedurally fair and unbiased process, which includes but is not limited to protecting the complainant from unreasonable and/or irrelevant questions, such as those pertaining to past sexual history or gender expression, complying with collective agreement provisions where applicable, and providing regular updates on the status of the process.
  
4. All persons who are accused of violating this policy can expect the College to provide the following:
  - a. compassion, dignity, and respect.
  - b. timely information about available support services and resources.
  - c. information on the options available to them; and,

- d. where a complaint is filed, a clear explanation of the investigation and decision-making process, and a procedurally fair and unbiased process.
5. The College reserves the right to initiate an investigation and/or to inform the relevant law enforcement agency without the consent of the person making the disclosure or filing the complaint regarding an incident of sexual violence or misconduct if there exists a reasonable belief that the safety of any member(s) of the college community is at risk.
6. The College reserves the right to implement interim measures as it considers appropriate to protect the safety of the college community or any of its members during an evaluation of a disclosure or complaint or pending the completion of an investigation. Such measures may include but are not limited to some or all the following actions:
  - providing a safety plan for the complainant.
  - supporting the complainant in reporting the incident to the police, if appropriate.
  - communicating clearly to the respondent that behaviors are unwelcome and must stop immediately.
  - restricting the respondent's access to the college campus, to specific area(s) of the campus and/or to campus technology.
  - altering the learning or work schedule of an individual.
  - imposing a no-contact directive; and/or
  - arranging temporary, non-disciplinary leave of an individual.
7. A student or any other member of the college community has the right to pursue other processes external to the College in connection with alleged incidents of sexual violence or misconduct, such as reporting the matter to the police, initiating a civil action, or filing a complaint under the BC [Human Rights Code](#). If an external course of action is pursued, the College may elect to continue with the process under this policy or to suspend its internal process pending the outcome of the external process.
8. A breach of this policy by any member of the college community represents serious misconduct and may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal, or expulsion.

## PROCEDURES

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### Accommodation and Safety Planning

Any student or other member of the college community affected by an incident of sexual violence or misconduct may request a safety plan or other academic or workplace accommodation(s) relating to the incident. Students or other non-employee members of the college community may contact the Director of Student Success. Employees may contact the Director of Education.

## Disclosure of Sexual Violence or Misconduct

1. Any student or other member of the college community who has experienced sexual violence or misconduct may choose to disclose the experience by confiding in another member of the college community.
2. The College encourages but does not require students or other members of the college community who have experienced sexual violence or misconduct to seek immediate assistance. Prompt action may be important to ensure physical safety, to obtain medical care or emotional support, or to preserve evidence.
3. A disclosure is not the same as a complaint under this policy. Under many circumstances, someone making a disclosure about an experience of sexual violence or misconduct may choose to seek support and appropriate resources or referrals without initiating a complaint that leads to an investigation. To initiate an investigation, a complaint must be filed with the Director of Student Success, except under circumstances outlined in Policy Statement 5 (above), when the College itself may initiate an investigation.
4. Under any of the following circumstances, a member of the college community who receives a disclosure of sexual violence or misconduct must notify the Director of Student Success:
  - a. a person is at risk of self-harm or of harming others.
  - b. there is an imminent risk of harm to any member(s) of the college community and/or to the broader community.
  - c. the disclosure involves sexual harassment in a college workplace.
  - d. a minor is involved or affected; or
  - e. disclosure is otherwise required by law.

In these instances, the minimum amount of information needed to meet legal or other obligations must be disclosed. Every effort will be made to involve the person making the disclosure in decision-making and to mitigate any associated risks. Any college community member who is unsure of their responsibility to disclose should seek advice from the Director of Student Success.

## Complaints of Sexual Violence and Misconduct or Other Violations of this Policy

1. A student or any other member of the college community who has experienced sexual violence or misconduct or who is otherwise affected by a violation of this policy, may file a complaint under this policy by submitting the complaint in writing to the Director of Student Success.
2. The Complaint should set out the relevant details regarding the alleged incident of sexual

violence or misconduct or other alleged violation of this policy. The complaint should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included with the complaint.

3. A complainant has the right to withdraw a complaint at any stage of the process. However, the College may continue to act on the issue identified in the complaint where it is obligated by law or by this policy to do so.

## Initial Review

1. Upon receipt of a complaint, the Director of Student Success will conduct an initial review to determine whether the allegations in the Complaint fall within the scope of this policy. This review will occur within seven (7) calendar days of receipt of a complaint unless exceptional circumstances exist that prevent the Director of Student Success from meeting this timeline, in which case the Director of Student Success will contact the complainant as soon as possible to inform them of the revised timeline.
2. If the Director of Student Success determines that the Complaint falls within the scope of this policy, the Director of Student Success will initiate a full investigation into the complaint.
3. If the Director of Student Success determines that the allegations in the complaint do not fall within the scope of this policy, the Director of Student Success will advise the complainant of this decision along with reasons. If the Director of Student Success believes that the complaint discloses other kinds of misconduct or information that the College may need to act on under another college policy or process, the Director may refer the complaint or the relevant portions of the complaint to the appropriate college authority. When appropriate, the Director will consult with the person making the complaint before referring it elsewhere.

## Investigation

1. The Director of Student Success will advise participants in the investigation of the option to have a support person present for interviews.
2. Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within thirty (30) calendar days of the Director of Student Success' receipt of a complaint. If during an investigation the Director of Student Success believes that this timeline cannot be met, the Director will contact the complainant, and the respondent as soon as possible to inform them of the revised timeline.
3. In all investigations, the respondent will be informed of the allegations made against them and will be given a full opportunity to respond.

4. The Director of Student Success will conduct the investigation using a procedurally fair and sensitive process, taking care to minimize or avoid circumstances that might reasonably be expected to cause participants distress (e.g., the complainant having to come into direct contact with the respondent). The investigation process may include, but is not limited to, the following:
  - a. requesting a written response to the complaint from the respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications.
  - b. meeting separately with or requesting further information from the complainant.
  - c. meeting separately with or requesting further information from the respondent.
  - d. meeting separately with or requesting further information from any other individuals who may have information relevant to the investigation, including any witnesses identified by the complainant or the respondent.
  - e. obtaining any other evidence that may be relevant to the investigation.
5. At the completion of the investigation, the Director of Student Success will submit a written report to the Director of Education. The report will normally include the following information:
  - a. a summary of the evidence considered.
  - b. any assessment of credibility that is required to render a determination; and
  - c. the findings of fact, and a determination as to whether, on a balance of probabilities, this policy has been violated.

## **Investigation Outcomes**

1. If the Director of Student Success' report determines that sexual violence or misconduct has occurred, or that this policy has otherwise been violated, the following will occur:
  - a. the Director of Student Success will provide a copy of the report to the Director of Education.
  - b. the Director of Education will determine what disciplinary or other measures are appropriate based on the findings in the report.
  - c. the complainant and the respondent will be notified of the Director of Student Success' findings and the respondent will be notified of the Director of Education's decision regarding disciplinary or other measures to be taken against the respondent; and
  - d. the respondent will be notified of the option to appeal, as described below.

2. If the Director of Student Success' report determines that that this policy has not been violated, the Director of Student Success will dismiss the complaint and so notify the complainant and the respondent. The complainant will be notified of the option to appeal, as described below.

## **Retaliatory Action, Breaches of Confidentiality and Complaints Made in Bad Faith**

1. Retaliatory action of any kind is prohibited. This includes retaliatory action against a person who makes a disclosure or files a complaint regarding sexual violence or misconduct, against witnesses, or against any other persons involved in the process.
2. Where a member of the college community is found to have engaged in retaliatory action, or to have breached the confidentiality requirements in this policy, the College may take appropriate disciplinary action.
3. Where an investigation determines that a complaint was filed in bad faith, the College may take appropriate disciplinary action.

## **Appeal**

1. A complainant or respondent may appeal the disciplinary decision of the Director of Education. An appeal will not reconsider the original complaint, although the person or body deciding the appeal has the discretion to consider any new evidence that could not reasonably have been available at the time of the original investigation.
2. An appeal must be submitted in writing within ten (10) business days after receipt of the decision being appealed: that is, ten days after receipt of the Director of Student Success' findings or ten days after receipt of the Director of Education's disciplinary decision, depending on the scope of the appeal. The written submission must provide specific grounds for appeal, describing how this policy was incorrectly applied, due process was not followed and/or the Director of Education's decision to discipline was inappropriate.

A student or other member of the college community who is not an employee of the college must submit the appeal to the Senior Leadership Team (SLT) by submitting it to any Director at the College.

3. The appeal may be upheld or dismissed, in whole or in part, and/or referred to the Director of Education for reconsideration.
4. The person or body deciding the appeal will give reasons for the decision in writing.