

# Policy on Sexual Violence and Misconduct

**CATEGORY:** Student – Conduct & Interaction

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**REVIEW REQUIREMENTS:** Every two (2) years

**APPROVED BY:** President

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## Policy Purpose & Summary

Ashton College (College) values and promotes the health, safety and well-being of individuals and the community. The College does not tolerate sexual violence and misconduct. The purpose of this policy is to affirm the College's commitment to maintaining and enhancing a safe and healthy environment for all members of the College Community and to state the College's commitment to addressing Sexual Violence and Misconduct by:

- a. Recognizing the diversity of the College Community and understanding that each person will be affected differently by Sexual Violence and Misconduct, based on the intersection of multiple identities such as: sex; sexual orientation; gender identity and expression; Indigenous, racial or ethnic background; migration status; language; ability; faith; age; socio-economic status and previous experiences of trauma, including but not limited to generational and historical trauma; and that acts of Sexual Violence and Misconduct may also be acts of sexism, racism, ableism, homophobia, and/or transphobia;
- b. Recognizing the significant impact that broader social attitudes and beliefs about sex, sexuality, and gender identity and expression that normalize Sexual Violence and Misconduct, have on all of us;
- c. Providing coordinated and comprehensive training and education for reducing, preventing, and responding to Sexual Violence and Misconduct for members of the College Community;
- d. Providing safe, accessible, and timely confidential assistance and support, referrals, and information to members of the College Community who are affected by Sexual Violence and Misconduct;
- e. Providing coordinated and comprehensive trauma-informed support for members of the College Community affected by Sexual Violence and Misconduct;
- f. Investigating reported incidents of Sexual Violence and Misconduct where appropriate;
- g. Ensuring clear and fair processes for managing and investigating Reports of Sexual Violence and Misconduct and, where appropriate, for establishing consequences and discipline.
- h. Systematically collecting data concerning incidents of Sexual Violence and Misconduct; and
- i. Reporting regularly to the College Community about the outcomes of this policy and its associated procedures.

## Definitions

**Accommodation** means 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 and Misconduct;
- b. Are designed to meet that person's needs resulting from an incident of Sexual Violence and Misconduct; and
- c. Do not infringe on the rights of others.

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

**Complainant** means a Survivor who makes a Report and initiates an internal process through the Vice President or Human Resources pursuant to section 5.5.2 of the policy.

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

- a. Is a freely given "yes";
- b. Cannot be given by someone who is incapacitated, including for example a person who is asleep or unconscious;
- c. Can never be obtained through threats, coercion, or other pressure tactics;
- d. Can be revoked at any time, regardless of whether other sexual activities or agreements have taken place;
- e. Cannot be obtained if someone abuses a position of trust, power, or authority over another person;
- f. Cannot be assumed from previous consent to the same or similar activities; and
- g. Cannot be assumed from any other action, ongoing or otherwise.

**Disclosure** occurs when a Survivor tells the Vice President, a member of Human Resources, or another member of the College Community that they have experienced Sexual Violence and Misconduct. This is not the same as a Report under sections 4.1-4.5 of the policy which is intended to initiate a process.

**Member of the College Community** all College Staff Members, Faculty, students, volunteers, contractors and all people who have a status at the College mandated by legislation or other College policies, including:

- a. Separately incorporated organizations operating on campus who voluntarily agree to submit to the processes under this policy;
- b. Organizations and individuals whose contracts require them to comply with College policies;
- c. Any person holding a College appointment whether or not that person is an employee;
- d. Members of the Board of Directors

**Report** means a Survivor telling the Vice President or a member of Human Resources about an incident of Sexual Violence and Misconduct with the intention of initiating a process. This is not the same as a Disclosure, under sections 4.1-4.5 of the policy, which does not initiate a formal reporting process. A Survivor who makes a Report and initiates an internal process through the Vice President or Human Resources will be referred to in that process as the Complainant.

**Respondent** means a member or members of the College Community against whom a Report has been made pursuant to this policy.

**Sexual Violence and Misconduct** is 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: sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, stealthing, and the distribution of sexually explicit photographs or videos of a person without their Consent.

**Survivor** means a member of the College Community who identifies as someone who has experienced Sexual Violence and Misconduct. The College recognizes that an individual may not wish to use the term Survivor and will therefore respect an individual's preferred term, such as Complainant, Victim, or Discloser, in its interactions with that person. A Survivor can access confidential assistance and support, referrals, and information from the Vice President or Human Resources and can request an accommodation as defined in the policy, regardless of where or when the Sexual Violence and Misconduct occurred, or the parties involved.

## Policy

### 1. JURISDICTION

- 1.1. Any member of the College Community who Discloses or Reports that they have been affected by Sexual Violence and Misconduct can access confidential assistance and support, referrals and information from the Vice President or Human Resources and request an accommodation, regardless of the time or place at which the Sexual Violence and Misconduct occurred, or the parties involved.
- 1.2. For the purposes of internal investigations, consequences and discipline, this policy applies only to Sexual Violence and Misconduct by a member of the College Community against another member of the College Community that is Reported to Human Resources or the Vice President and that is alleged to have occurred:
  - 1.2.1. On any property that is controlled by the College and used for College purposes; or
  - 1.2.2. At or during an in-person or virtual meeting, event, or activity that is sponsored by or under the auspices of the College, or in furtherance of College business; or
  - 1.2.3. Online, using the College's Information and Communications Technology; or
  - 1.2.4. When the Respondent was in a position of power or influence over the Survivor's academic or employment status at the time of the reported incident.
- 1.3. This policy also applies to and prohibits Sexual Violence and Misconduct by a person who is not a member of the College Community, against a person who is a member of the College Community, which occurs on any property that is controlled by the College and used for College purposes. In such cases, the College will, within the limits of its legal right to do so, endeavour to restrict that person's access to, or remove that person from, College property.
- 1.4. In cases involving behaviour that may fall within the definition of "sexual harassment" in the College's Policy on Bullying and Harassment, the Survivor may choose to proceed under that policy as set out in section 5.5.1 below. Human Resources or the Vice President will explain this option to a Survivor who makes a Report.
- 1.5. This policy is not intended to discourage or prevent a member of the College Community from exercising any other rights they may have, including the right to file a complaint with the British Columbia Human Rights Tribunal or the right to pursue a criminal or civil remedy.

### 2. HUMAN RESOURCES AND THE VICE PRESIDENT

- 2.1. Both Human Resources and the Vice President will:
  - 2.1.1. Provide safe, timely, ongoing, and confidential assistance and support, referrals, and information to a member of the College Community who has been affected by Sexual Violence and Misconduct;

- 2.1.2. Receive and facilitate that person's request for reasonable and appropriate academic, workplace or other accommodation;
- 2.1.3. Inform Survivors about their options for reporting Sexual Violence and Misconduct and assist them to make informed decisions;
- 2.1.4. Inform Respondents about their options and assist them to make informed decisions;
- 2.1.5. Work closely with off-campus and on-campus services to ensure timely and coordinated assistance, support, and referrals for members of the College Community affected by Sexual Violence and Misconduct and to reduce the repetition of Disclosures and Reports by a Survivor;
- 2.1.6. Provide timely and confidential assistance and support, referrals, and information to members of the College Community who have received Disclosures;
- 2.1.7. Maintain a comprehensive, integrated communication strategy, which will include a central web resource with detailed information about:
  - 2.1.7.1. The supports and resources available to Survivors, Respondents, and other members of the College Community;
  - 2.1.7.2. Options for reporting an incident of Sexual Violence and Misconduct under sections 5.1-5.7 of this policy, including processes that are external to the College and processes that are internal;
  - 2.1.7.3. Related matters.
- 2.1.8. Oversee, develop, and coordinate the delivery of the training, education and awareness initiatives mandated by this policy;
- 2.1.9. Systematically collect data and maintain annual statistics, without identifying information, on the number of Disclosed and Reported incidents of Sexual Violence and Misconduct under this policy for the purposes of community education and for reporting to the College Community;
- 2.1.10. Participate in the periodic evaluations of this policy and its related initiatives;
- 2.1.11. Conduct periodic surveys of the College Community related to Sexual Violence and Misconduct.
- 2.2. Both Human Resources and the Vice President will facilitate Reporting an incident of Sexual Violence and Misconduct pursuant to sections 5.1-5.7 of this policy when requested by a Survivor, and it will provide the Survivor with confidential and ongoing support, but they will not be an advocate for any member of the College Community, as they will have a role in investigations or disciplinary actions.

### **3. AWARENESS, EDUCATION AND TRAINING**

- 3.1. In cooperation with relevant partners, the Vice President and Human Resources will oversee, develop, and coordinate a proactive and sustained plan for the College Community that may include a combination of campaigns, on-line and in-person training sessions, workshops, print and on-line resources, programs, and other events on a range of topics related to:
  - 3.1.1. Reducing, preventing, and responding to Sexual Violence and Misconduct; and
  - 3.1.2. Providing support for members of the College Community affected by Sexual Violence and Misconduct.
- 3.2. The Vice President and Human Resources will strongly encourage all members of the College Community to become knowledgeable about and to contribute to the reduction and prevention of Sexual Violence and Misconduct.

### **4. DISCLOSING SEXUAL VIOLENCE AND MISCONDUCT**

- 4.1. A member of the College Community who has experienced Sexual Violence and Misconduct may choose to disclose the experience by confiding in the Vice President, a member of Human Resources, or a member of the College Community. This is a Disclosure. A Disclosure is not the same as a Report under sections 5.1-5.7 of this policy. A Disclosure normally does not initiate an investigation or other process. To initiate a formal reporting

process, a Survivor must Report an incident of Sexual Violence and Misconduct to the Vice President or a member of Human Resources pursuant to sections 5.1-5.7 of this policy.

- 4.2. All members of the College Community are strongly encouraged to be knowledgeable about how to appropriately receive and respond to a Disclosure. Members of the College Community who receive a Disclosure may choose to contact the Vice President or a member of Human Resources for information, advice, and personal support.
- 4.3. A member of the College Community who receives a Disclosure should treat the Survivor with compassion, dignity, and respect. They should ensure that the Survivor is aware of this policy and inform the Survivor that both the Vice President and Human Resources are available to provide the Survivor with confidential and ongoing assistance and support, referrals, and information.
- 4.4. A member of the College Community who Discloses or Reports to either the Vice President or Human Resources that they have experienced Sexual Violence and Misconduct can expect to:
  - 4.4.1. Be treated with compassion, dignity, and respect;
  - 4.4.2. Obtain timely assistance to create a safety plan;
  - 4.4.3. Learn about on- and off-campus services and resources;
  - 4.4.4. Obtain reasonable and appropriate academic, workplace or other accommodation tailored on a case by case basis;
  - 4.4.5. Learn about the options and procedures for initiating internal and external processes to address an incident of Sexual Violence and Misconduct, as outlined in sections 5.1-5.7 of this policy, and the limits to confidentiality associated with each option;
  - 4.4.6. Receive timely, ongoing, and confidential support, regardless of whether the member chooses to make a Report under sections 5.1-5.7 of this policy, and regardless of the outcome of that Report;
  - 4.4.7. Be provided with information to allow them to make autonomous and informed decisions about which services they believe will be the most beneficial; and
  - 4.4.8. Be provided with information to allow them to make autonomous and informed decisions about which of the options outlined in sections 5.1-5.7 to pursue, if any.
- 4.5. A Survivor who Discloses to the Vice President or Human Resources that they have experienced Sexual Violence and Misconduct is entitled to decide whether to
  - 4.5.1. Access available on- and off-campus services and to choose the services they feel will be the most beneficial;
  - 4.5.2. Contact the relevant law enforcement agency and pursue criminal proceedings;
  - 4.5.3. File a complaint with the British Columbia Human Rights Tribunal, where the matter falls within its jurisdiction;
  - 4.5.4. Initiate other legal proceedings;
  - 4.5.5. File a complaint of sexual harassment under the College's Policy on Bullying and Harassment; or
  - 4.5.6. Convert their Disclosure into a Report pursuant to section 5.5.2 of this policy, with the intention of initiating an internal process as outlined in that section.
  - 4.5.7. A member of the College Community who requests academic, workplace, or other accommodation due to an incident of Sexual Violence and Misconduct should contact the Vice President or Human Resources, who will receive and facilitate the request where reasonable and appropriate.

## 5. REPORTING SEXUAL VIOLENCE AND MISCONDUCT TO THE COLLEGE

- 5.1. A Survivor who has experienced Sexual Violence and Misconduct by another member of the College Community may choose to Report the Sexual Violence and Misconduct to the Vice President or Human Resources with the intention of initiating a process under section 5.5 of this policy. A Report is not the same as a Disclosure under sections 4.1-4.5. A Disclosure normally does not initiate an investigation or other process.

- 5.2. A Survivor may make a Report to the Vice President or Human Resources alone or the with the assistance of a support person of their choice.
- 5.3. The Vice President or Human Resources will inform the Survivor about their options, as outlined in sections 5.4 and 5.5 of this policy and will assist them to understand those options.
- 5.4. A Survivor may choose one or more of the following options to initiate an external process:
  - 5.4.1. To contact the relevant law enforcement agency and pursue criminal proceedings;
  - 5.4.2. To file a complaint with the British Columbia Human Rights Tribunal where the matter falls within its jurisdiction;
  - 5.4.3. To initiate other legal proceedings.
- 5.5. A Survivor who makes a Report may choose one of the following options to initiate an internal process:
  - 5.5.1. To file a complaint under the College's Policy on Bullying and Harassment in cases involving behaviour that may fall within the definition of sexual harassment in that policy.
  - 5.5.2. To initiate, as a Complainant through the Vice President or Human Resources.
- 5.6. Nothing in this policy prevents interim measures being imposed on a Respondent pursuant to a College policy or other agreement.
- 5.7. The College reserves the right to initiate an internal investigation and/or to inform the relevant law enforcement agency without the consent of the Survivor if it has a reasonable belief that the safety of one or more persons may be at risk. In these circumstances, the College will provide support throughout the process for individuals impacted by Sexual Violence and Misconduct. Circumstances where the College may proceed without a Complainant include:
  - 5.7.1. Where there is a risk to the safety of the College Community.
  - 5.7.2. Where required by law, such as under the Occupational Health and Safety Regulation and the Child, Family and Community Service Act.

## **6. PROCEDURAL FAIRNESS**

- 6.1. The College shall deal with all Reports of Sexual Violence and Misconduct in a fair, unbiased, timely manner and in accordance with relevant collective agreements and other applicable College policies.
- 6.2. An impartial and appropriately qualified person shall investigate Reports of Sexual Violence and Misconduct.
- 6.3. Investigations must comply with all relevant provisions in any applicable agreement or policy, including notice requirements, timelines, and other process issues.
- 6.4. A Complainant and a Respondent shall each be advised of the procedures that will be followed.
- 6.5. A Respondent shall be advised of the allegation and shall be given an opportunity to respond.

## **7. CONSEQUENCES AND OUTCOMES**

- 7.1. A Respondent who is found to have committed an act of Sexual Violence and Misconduct will be held accountable by the College and may be subject to consequences which may include disciplinary action up to and including suspension, expulsion or termination.
- 7.2. The College will provide a Complainant who initiates a process under section 5.5.2 with the outcome of the Report that was made.

## **8. ACCESS TO INFORMATION AND PROTECTION OF PRIVACY**

- 8.1. The information and records made and received to administer this policy are subject to the access to information and protection of privacy provisions of British Columbia's Personal Information Protection Act as well as relevant College policies.

- 8.2. To the extent possible, the information and records will be treated in a confidential manner, in compliance with the Act and with applicable College policies and agreements.
- 8.3. A College Staff Member or Faculty who receives a Disclosure or a Report or who is involved in addressing or investigating it must:
  - 8.3.1. Make every reasonable effort to protect personal information and maintain confidentiality;
  - 8.3.2. Collect the minimum information about individuals that relates directly to and is necessary to respond to a Disclosure or Report, which is considered to be supplied in confidence;
  - 8.3.3. Use the information about individuals only for the purposes of, or those consistent with, addressing the situation, investigating, or taking action;
  - 8.3.4. Limit disclosure of information about individuals to those within the College who need to know to perform their duties; and
  - 8.3.5. Disclose personal information in all other circumstances only as permitted under the Freedom of Information and Protection of Privacy Act.
- 8.4. The College may disclose personal information where appropriate, including where:
  - 8.4.1. It determines compelling circumstances exist that affect any person's health or safety;
  - 8.4.2. A law authorizes or requires its disclosure;
  - 8.4.3. It is needed to prepare or obtain legal advice for the College;
  - 8.4.4. It complies with a subpoena, a warrant or an order issued by a court, person, or body in Canada with jurisdiction to compel the production of information;
  - 8.4.5. It uses the information for the purpose for which it was obtained or compiled or for a use consistent with that purpose (for example, where it is necessary to fulfill its duty of procedural fairness);
  - 8.4.6. An employee needs the information to perform their employment duties; or
  - 8.4.7. It is to a law enforcement agency in Canada to assist in a specific investigation.

## 9. MULTIPLE PROCEEDINGS

- 9.1. If criminal, civil, or administrative proceedings are commenced in respect of allegations of Sexual Violence and Misconduct, the College reserves the right to proceed with, defer or suspend its own processes. The College will make a reasonable effort to inform the Survivor of its intentions in relation to College processes.

## 10. RETENTION AND DISPOSAL OF RECORDS

- 10.1. Information and records made and received to administer this policy are evidence of the College's actions to respond to Sexual Violence and Misconduct education, reduction and prevention, support, and investigation. Information and records must be retained and disposed of in accordance with relevant policies and scheduled approved by the College.

## 11. INTERPRETATION

- 11.1. Questions of interpretation and application of this policy or its procedures shall be referred to the Vice-President, who will make a decision, which will be final.

**ACCOMPANYING POLICIES:** This policy is a part of a suite of policies under the Student Policies category.