

Sexual Misconduct & Relationship Violence Policy

Procedures for Handling Sexual Misconduct and Relationship Violence Complaints

LCV values civility, dignity, diversity, education, honesty, and safety and is firmly committed to maintaining a campus environment free from all forms of sex discrimination, sexual harassment, and sexual assault. Sexual Misconduct and Relationship Violence, defined more specifically below, are inconsistent with these values, violate institutional policy, and will not be tolerated at LCV and are expressly prohibited. Similarly, retaliation for having brought forward a concern or allegation or for participating in an investigation of a report of Sexual Misconduct or Relationship Violence is also expressly prohibited and is grounds for disciplinary action.

This Policy provides information regarding how an individual – whether a student, faculty member, or staff member – can make a report of Sexual Misconduct or Relationship Violence impacting a student and how LCV will proceed once it is made aware of any such report.

For faculty and staff members who believe they are the victim of sexual misconduct, please follow our No Harassment policy in the Employee Handbook.

I. Preliminary Issues & Important Definitions

This Policy prohibits “Sexual Misconduct” and “Relationship Violence,” broad categories encompassing the conduct defined below. Sexual Misconduct and Relationship Violence can be committed by anyone, including third parties, and can occur between people of the same sex or different sexes and regardless of one’s biological sex or transgendered sex.

This policy applies to Sexual Misconduct and Relationship Violence that is committed against a student when that Sexual Misconduct or Relationship Violence occurs: (i) on campus; (ii) off-campus if in connection with a College-sponsored program or activity; or (iii) off-campus if allegedly perpetrated by a fellow student, faculty member, staff member, or third party when the victim/reporting student reasonably believes that the off-campus conduct has created a hostile educational environment.

A. What is “Sexual Misconduct”?

Sexual Misconduct includes the threat, attempt, or commission of:

- Sexual Assault: Having or attempting to have sexual intercourse, cunnilingus, or fellatio without Consent (as defined below). Sexual intercourse is defined as anal or vaginal penetration by a penis, tongue, finger, or inanimate object.
- Non-Consensual Sexual Contact: Any intentional sexual touching with any body part or object by any person upon any person without Consent.

- **Sexual Exploitation:** An act attempted or committed through the abuse or exploitation of another person's sexuality. Examples include, but are not limited to, prostituting another student; inducing a student into sexual intercourse, sexual contact, or other sexual activity by implicit or explicit threat of exposure of personal information or academic consequences; non-consensual video or audio recording of sexual activity; allowing others to observe a personal consensual sexual act without the knowledge or Consent of all involved parties; and knowingly transmitting or exposing another person to a sexually transmitted infection without the person's knowledge.
- **Indecent Exposure:** the exposure of the private or intimate parts of the body in a lewd manner in public or in private premises when the accused may be readily observed.
- **Sexual Harassment:** unwelcome sexual advances, requests for sexual favors, and other physical or verbal conduct of a sexual nature when it meets any of the following:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's academic status; or
 - (b) Submission to or rejection of such conduct by an individual is used as the basis for academic decisions affecting such individual; or
 - (c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive environment for working, learning, or living on campus

B. What is "Relationship Violence"?

Relationship Violence includes:

- **Domestic Violence:** Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a current or former spouse or intimate partner or any other person from whom the student is protected under federal or applicable state law.
- **Dating Violence:** Violence, including but not limited to sexual or physical abuse or the threat of such abuse, committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such a relationship is generally determined based on a consideration of the length and type of relationship and the frequency of interaction.
- **Stalking:** A course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others or suffer substantial emotional distress. A course of conduct means two or more acts in which a person directly, indirectly or through third parties, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property

The following also constitute violations of this Policy:

- **Complicity:** Assisting, facilitating, or encouraging the commission of a violation of this Policy.
- **Retaliation:** Acts or attempted acts for the purpose of interfering with any report, investigation, or proceeding under this Policy, or as retribution or revenge against anyone who has reported Sexual Misconduct or Relationship Violence or who has participated (or is expected to participate) in any manner in an investigation, or proceeding under this Policy. Prohibited retaliatory acts include, but are not limited to, intimidation, threats, coercion, or discrimination. To be clear, retaliation against a Complainant for reporting an incident or against any witness who participates in an investigation is strictly prohibited

C. Who are “Complainants” and “Respondents”?

LCV is not a court of law. We also do not engage in victim-blaming or rushes to judgment. Therefore, without judgment, we refer to anyone who reports that s/he has experienced Sexual Misconduct as a “Complainant” and to anyone who reportedly has engaged in Sexual Misconduct as a “Respondent.”

D. Defining Consent

In many cases of Sexual Misconduct, the central issue is consent or the ability to give consent. Consent is a voluntary agreement to engage in sexual activity. Consent to engage in sexual activity must exist from beginning to end of each instance of sexual activity. Past Consent does not imply future Consent, and Consent to engage in one form of sexual activity does not imply Consent to engage in a different form of sexual activity. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage in a specific sexual activity. Consent must be knowing and voluntary. To give Consent, a person must be awake, of legal age, and have the capacity to reasonably understand the nature of her/his actions. Individuals who are physically or mentally incapacitated cannot give Consent.

Silence, without actions evidencing permission, does not demonstrate Consent. Where force, threats, or coercion is alleged, the absence of resistance does not demonstrate Consent. Force, threats, or coercion invalidates Consent. The responsibility of obtaining Consent rests with the person initiating sexual activity. Use of alcohol or drugs does not diminish one’s responsibility to obtain Consent or negate one’s intent.

Consent to engage in sexual activity may be withdrawn by either person at any time. Once withdrawal of Consent has been clearly expressed, the sexual activity must cease.

Incapacitation is the inability, temporarily or permanently, to give Consent, because the individual is mentally and/or physically helpless due to drug or alcohol consumption, either voluntarily or involuntarily, due to an intellectual or other disability that prevents the student from having the capacity to give Consent, or the individual is unconscious, asleep or otherwise unaware that the sexual activity is occurring. In addition, an individual is incapacitated if he or she demonstrates that they are unaware of where they are, how they got there, or why or how they became engaged in a sexual interaction. Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators that

an individual is incapacitated may include, but are not limited to, vomiting, unresponsiveness, inability to communicate coherently, inability to dress/undress without assistance, inability to walk without assistance, slurred speech, loss of coordination, lack of awareness of circumstances or surroundings, or inability to perform other physical or cognitive tasks without assistance.

E. Policy Coordinator & Deputy Coordinators

For purposes of complying with provincial and federal laws, matters involving sexual misconduct and relationship violence will be addressed by Campus Director, who serves as the Policy Coordinator (“Coordinator”). The Coordinator is responsible for, among other things, coordinating the campus’s efforts to comply with and carry out the campus’s responsibilities under provincial and Canadian law, including compliance with this policy. The Coordinator will help to coordinate any investigations under this Policy.

In addition, the College has other individuals who serve as Deputy Coordinators to help oversee investigations and determination proceedings under this Policy.

II. Reporting & Confidentiality

We encourage victims of Sexual Misconduct & Relationship Violence to talk to somebody about what happened – so they can get the support they need, and so the College can respond appropriately.

Different employees on campus have different abilities to maintain confidentiality:

- **CONFIDENTIAL REPORTING:** Some individuals are required to maintain near complete confidentiality. These include professional counselors such as those provided by Talk One2One counselling services. These individuals can provide resources and generally talk to a victim without revealing any personally identifying information about an incident to the College. A victim can seek assistance and support from these individuals without triggering a College investigation.
- **NON-CONFIDENTIAL REPORTING:** Other than professional counsellors defined above, most other employees and contractors are required to report all the details of an incident to the Coordinator. A report to these employees (called “responsible employees”) constitutes a report to the College and generally obligates the College to investigate the incident and take appropriate steps to address the situation. The following campus employees (or categories of employees) are examples of responsible employees: President, Campus Director, other Student Services staff, Academic Advisors, the Security Team (including contract security personnel), all full-time and adjunct Faculty, Talent and Culture (Human Resources).

The College will seek to protect the privacy and confidentiality of the individuals involved in any report of alleged Sexual Misconduct or Relationship Violence to the extent possible and allowed by law. The Coordinator will evaluate any request for confidentiality in the context of the

College's responsibility to provide a safe and non-discriminatory environment to all members of its community.

The College will complete any publicly available record-keeping required by law without the inclusion of identifying information about the alleged victim. It will also maintain as confidential any interim measures or remedies provided to the alleged victim to the extent that maintaining confidentiality will not impair its ability to provide the interim measures or remedies.

In addition to internal reporting, the College strongly encourages anyone who believes they have experienced a sexual assault (or any other crime) to make a report to local law enforcement. Collection and preservation of evidence relating to the reported sexual assault is essential for law enforcement investigations, so prompt reporting of the incident to law enforcement is especially critical. Designated staff will, upon request, assist an individual in making a report to law enforcement as necessary and appropriate.

Although we strongly encourage complainants to report to local law enforcement, such a report is not a prerequisite to the College's review and investigation of any complaint covered by this Policy. The College will honour a Complainant's request not to report the matter to local law enforcement UNLESS we have a reasonable basis to believe that the safety and security of the campus community is at risk. In this event, the College will endeavor to notify a Complainant or Reporter of the institution's intent to report the matter to law enforcement in advance of any such report.

The College does not limit the time frame for reporting under this Policy, although a delay in reporting may impact the College's ability to take certain actions.

Other Code of Conduct Violations: The College encourages students who have been the victim of Sexual Misconduct or Relationship Violence to come forward. Students should not be discouraged from reporting such incidents because they fear discipline for their own violations of the Student Code of Conduct. Therefore, the College has discretion not to pursue other violations of the Student Code of Conduct that occurred in the context of the reported incident of Sexual Misconduct or Relationship Violence.

III. Response Procedure

Students are encouraged to report any incident of Sexual Misconduct or Relationship Violence to the Coordinator, Deputy Coordinator, the Campus Director, or the Campus President. If a report is made verbally, the College will request a written statement by the student. While a student may contact any of these persons to report an incident, the Campus Director will be well prepared to handle all types of sensitive student matters.

Upon receipt of a report, the College will generally proceed as described below.

A. Investigation Commencement

The College will provide a timely and thorough investigation. Barring exigent circumstances, cases of Sexual Misconduct and Relationship Violence will generally be resolved within a 60-day period once the incident has been reported. An extension of time may be necessary if

witnesses are unavailable or uncooperative or due to other extenuating circumstances beyond the control of the investigator.

B. Initial Response

Once the College is put on notice of possible Sexual Misconduct and Relationship Violence, the Complainant will be offered appropriate confidential support, accommodations, and other resources and will be notified of applicable policies and procedures. Accommodations include the ability to move to different housing, to change work schedules, to alter academic schedules, to withdraw from/retake a class without penalty, and to access academic support. The Respondent also will be offered appropriate resources and notified of applicable policies and procedures.

C. Interim Intervention

Pending a final determination, the Coordinator and/or Student Services staff will take appropriate interim measures. These measures may include, but are not limited to, the imposition of a no-contact order and/or employment, transportation, residence, and academic modifications. Student Services staff may limit a student or organization's access to certain College facilities or activities pending resolution of the matter. The College may impose an Interim Suspension on the Respondent pending the resolution of an alleged violation when the College determines, in its sole discretion, that it is necessary in order to protect the safety and well-being of members of the campus community.

D. Decision to Proceed to Investigation

If the Complainant is willing to participate in the review and investigation process, the College will proceed as described below in Section III (E).

If the Complainant requests a confidential investigation, the College will seek to protect the privacy and confidentiality of the Complainant to the extent possible and allowed by law. The College, in consultation with the Coordinator, will evaluate any request for confidentiality in the context of the College's responsibility to provide a safe and non-discriminatory environment to all members of its community.

If a confidential investigation is requested and agreed to, the College will investigate without revealing the name of the Complainant in any interview or email and will not ask questions that inadvertently or reasonably could reveal the identity of the Complainant.

If the Complainant asks that the report of sexual misconduct not be pursued, the College will consider the interests of the Complainant, the campus community, law enforcement, and/or other appropriate interests under the circumstances. The College, in consultation with the Coordinator, will make a final decision on whether and to what extent it will conduct an investigation, and notify the Complainant promptly.

E. Investigation Procedure

Investigators do not function as advocates for either Complainants or Respondents. Investigators can, however, identify advocacy and support resources for either Complainants or

Respondents.

The Respondent will receive written notice of the report and the nature of the alleged misconduct.

He/She will be advised in writing of the investigation process and opportunity to provide any relevant evidence.

The Investigation will generally be conducted by the Campus Director for the campus (or any other individual appointed by the Coordinator) if the Respondent is a student. If the Respondent is a faculty or staff member, Talent and Culture will also participate in the investigation.

The investigator will separately interview both Complainant and Respondent. Both parties will be able to provide evidence and suggest other witnesses to be interviewed. The investigator will interview other relevant witnesses and review any other available relevant evidence. Both the Complainant and Respondent can have another individual present during their own respective interviews. If the Complainant or Respondent elects, they may have legal counsel present during their own interview but said counsel may not advocate during the interview.

F. Determinations

1. For cases where the Respondent is a student.

The investigator will present all evidence to the Coordinator (or his/her designated Deputy Coordinator). In all cases, the Coordinator or the designated Deputy Coordinator will be appropriately trained regarding handling and considering sexual misconduct and relationship violence cases.

The Coordinator will weigh the evidence presented and decide whether additional evidence is necessary for consideration. Ultimately, the Coordinator will make a determination of whether a violation of the Sexual Misconduct & Relationship Violence Policy or any other policy has occurred.

The College reserves the right to convene a Determination Panel to review the evidence and make the determination in appropriate circumstances.

2. For cases where the Respondent is a Faculty or Staff Member.

The investigator will present all evidence to the Ethics Committee. The Ethics Committee will be appropriately trained regarding handling and adjudicating sexual misconduct and relationship violence cases. The Ethics Committee will weigh the evidence presented and make a determination whether a violation of the Sexual Misconduct & Relationship Violence Policy or any other policy has occurred.

G. Standard of Proof

In all cases under the Sexual Misconduct policy, the Coordinator (or designee) or the Ethics Committee will determine if a violation of policy has occurred by the preponderance of evidence standard. Thus, they will determine whether it is more likely than not that a violation has

occurred.

H. Potential Sanctions

If a violation of policy has been found, the Coordinator or the Ethics Committee will impose appropriate sanctions, including but not limited to coaching, training, probation, suspension, or expulsion in the case of students or coaching, training, written warning, demotion, or termination in the case of employees.

I. Outcome Notifications

Both the Complainant and Respondent will be notified in writing of the outcome of the investigation and of the sanctions imposed, if any.

J. Appeals

If the Complainant or Respondent is a student, he or she may appeal the outcome determination by written appeal to the Campus President within 15 business days of notification of the outcome. An appeal may be made based only on one or more of the following reasons:

1. New and significant evidence appeared that could not have been discovered by a properly diligent charged student or complainant before or during the original investigation and that could have changed the outcome.
2. The Finding is Arbitrary and Capricious: Reading all evidence in the favour of the non-appealing party, the finding was not supported by reasonable grounds or adequate consideration of the circumstances. In deciding appeals, the Campus President is allowed to make all logical inferences in benefit of the non-appealing party.
3. Disproportionate Sanctions: The sanctions were disproportionate to the findings.

The appeal shall consist of a written statement requesting review of the conduct decision or sanction and explaining in detail the basis for the appeal. The Campus President, or designated representative, will notify the non-appealing party of the request for an appeal. Within five business days of receipt of the notice, the non-appealing party may submit a written statement to be included in the case file. The appeal may proceed without the non-appealing party's written statement if it is not submitted within the designated time limit.

The Campus President will endeavor to make a determination of the appeal within 15 business days of receipt. The Campus President's decision is final.