



Sexual Misconduct Policy

Purpose:

The purpose of this procedure is to assist the Canadian National Institute of Business members in knowing how and where to report any sexual violence, to highlight resources available to assist students and employees both on and off campus, and in turn, to create a culture and normalization of reporting sexual violence as it impacts the College. This document is available in alternate format upon request. This policy is subject to review and modification every three (3) years.

Definitions:

See Appendix A.

Procedures:

1. If You Have Experienced Sexual Violence

It is often difficult to disclose and report incidents of sexual violence. It is entirely up to you if you choose to report the incident; however, we strongly encourage you to do so.

If you have experienced sexual violence and require emergency support, please call Police Services (911 for emergencies).

If you require medical attention, consider getting medical care at a local hospital. If possible, do not change clothes, bathe, or brush your teeth until evidence is collected. A complete medical evaluation will include evidence collection, a physical examination and treatment. Please note you will have the opportunity to opt out at any time during the medical evaluation.

The college will appropriately accommodate the needs of students who are affected by sexual violence in any way possible; please connect with the Office Administrator who will direct to you a private meeting room for a meeting with a Campus Director and to review the community resources available.

Other resources are available to you, and can support you in deciding whether or not to report the violence, including:

- Health and Counselling Services
- The Centre for Human Rights, Equity & Diversity
- Local Police Services

Anyone who has experienced sexual violence has the right to:

- be treated with dignity and respect;
- be believed;
- be informed about on-and-off-campus services and resources;
- decide whether or not to access available services and to choose those services they feel will be most beneficial;
- decide whether to report to campus security and/or local police;
- have an on-campus investigation with the institution's full cooperation;



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- have a safety plan; and
- have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s)
- can have someone present with them in the process if they choose

Students are not required to report an incident of, or make a complaint about sexual violence under the process in order to obtain the supports and services of accommodation.

2. If you would like to File a Formal Complaint within the College, please advise the Campus Administrator who will supply you with the necessary forms and assist you; at any time throughout the process you may opt to have someone else present with you.

Individuals who have experienced sexual violence may also wish to press charges under the Criminal Code, please call Police Services (911 for emergencies).

3. What to Do if You Witnessed Sexual Violence

If you witness sexual violence, and require emergency support, please call Police Services (911 for emergencies).

If a member of faculty or staff of the College becomes aware of an allegation of sexual violence against another member of the College community, the faculty or staff is required to report the alleged incident to Canadian National Institute of Business.

4. What to Do if Someone Discloses Allegations of Sexual Violence

A person may choose to confide in someone (such as an instructor or administrator) about an act of sexual violence. Students who have experienced sexual violence may also disclose to staff or faculty members when seeking support and/or academic accommodation. A supportive response involves:

- listening without judgment and accepting the disclosure as true;
- communicating that sexual violence is never the responsibility of the survivor;
- helping the individual identify and/or access available on or off-campus services, including emergency medical care and counselling;
- respecting the individual's right to choose the services they feel are most appropriate and to decide whether to formally report to the police.
- recognizing that disclosing can be traumatic and an individual's ability to recall the events may be limited;
- respecting the individual's choices as to what and how much they disclose about their experience; and
- making every effort to respect confidentiality and anonymity.

If disclosure is made to any faculty or staff member by a student seeking support or academic accommodation, the faculty or staff should refer the student to Administration or Director, to ensure that the student receives all necessary support and academic accommodation.



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As indicated above, if faculty or staff member of the College becomes aware of an allegation of sexual violence against another member of the College community, the faculty or staff member is required to report the alleged incident to their direct supervisor immediately. From there, the supervisor will consult other college officials as appropriate and required.

In certain circumstances, the College may be required to initiate an internal investigation and/or inform the police of the need for a criminal investigation, even without the person's consent, if the College believes that the safety of other members of the College community is at risk. In all instances, action will be taken understanding confidentiality as outlined in the Sexual Assault and Sexual Violence Policy.

5. Communicating with Individuals who have Experienced Sexual Violence

Sensitive and timely communication with individuals who have experienced sexual violence is a central part of the College's first response to sexual violence. To facilitate communication the College will:

- ensure that designated employees who are knowledgeable about sexual violence are responsible for advocacy on campus on behalf of employees, students or any other member of the College community who have experienced sexual violence;
- ensure employees respond in a prompt, compassionate, and personalized manner; and
- ensure that the person who has experienced sexual violence and the respondent are provided with reasonable updates about the status of the College's investigation of the incident when such investigations are undertaken.

6. Roles and Responsibilities of the Canadian National Institute of Business Community

While everyone on campus has a role to play in responding to incidents of sexual violence, some campus members will have specific responsibilities which might include:

- on-campus counselling supports to provide and assist with safety planning and make referrals to other services, including medical services. Counselling is available for the survivor, and where the respondent is a student, they may wish to avail themselves of counselling services also;
- faculty, staff and administrators to support academic accommodations requested by Counselling and Health Services on behalf of those who have experienced sexual violence, e.g., extensions on assignments, continuing studies from home, and dropping courses;
- Human Resources and the Centre for Human Rights, Equity and Diversity to assist with any incidents relating to employees; and
- Security to assist with investigations and gathering evidence, to implement measures to reduce sexual violence on campus, and to collaborate with local police where appropriate.

7. How Will the College Respond to a Report of Sexual Violence?

Where a complaint of sexual violence has been reported to the College, the College will exercise care to protect and respect the rights of both the complainant and the respondent. The College understands that individuals who have experienced sexual violence may wish to control whether and how their experience will be dealt with by the police and/or the College. In most circumstances, the person will retain this control. However, in certain circumstances, the College may be required to initiate an internal investigation and/or inform the police of the need for a



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criminal investigation, even without the person's consent if the College believes that the safety of other members of the College community is at risk. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

A report of sexual violence may also be referred to the police, or to other community resources at the complainant's request, where the persons involved are not members of the College community or in circumstances where the College is unable to initiate an internal investigation under this Policy.

- Where the Respondent is a Student. Sexual violence is a violation of the Code of Student Conduct. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences.
- Where the Respondent is an Employee Sexual violence is a violation of the Workplace Violence Prevention Policy & Procedure, and the Human Rights Policy & Procedure. Allegations against employees will be addressed in accordance with the procedures set out in this Policy, and other College policies. If the complaint is sustained following an investigation, the College will decide on the appropriate disciplinary actions consistent with any applicable collective agreement and/or policies regarding discipline.
- Where the Respondent is not a Student or Employee Contractors, suppliers, volunteers or visitors who attend on campus will be subject to complaints if they engage in prohibited conduct. Where a complaint against the respondent is substantiated, the College will take appropriate action.

All contractual relationships entered into by the College will be governed by a standard contract compliance clause stating that contractors must comply with this Policy and the British Columbia Human Rights Code, including co-operating in investigations. Breach of the clause may result in penalties, cancellation, or other sanctions.

- **Multiple Proceedings**
Where criminal and/or civil proceedings are commenced in respect to the allegations of sexual violence, the College may conduct its own independent investigation into such allegations, and will make its own determination in accordance with its policies and procedures. Where there is an ongoing criminal investigation, the College will cooperate with the local police.



Appendix A: Definitions

SEXUAL ASSAULT:

Sexual Assault is a form of Sexual Violence and is a criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of that person and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

SEXUAL VIOLENCE:

A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual abuse and sexual assault. Acts of sexual violence include: unwanted sexual comments or advances; coercion of another person's sexuality by physical or psychological intimidation; and/or the denial of another person's sexual decision-making rights. Anyone, regardless of age, gender or sexual orientation can fall victim to sexual violence. Sexual violence can profoundly impact physical and mental wellbeing of individuals and communities.

SEXUAL HARASSMENT:

Is prohibited by the British Columbia Human Rights Code and may be based on gender (including transgendered persons) or may involve the use of overt sexual language or sexual innuendo which makes an individual feel uncomfortable. Sexual harassment includes, but is not limited to, the following:

- Any deliberate and unsolicited sexual comment, suggestion or physical contact that creates an uncomfortable learning/working environment for the recipient and is made by a person who knows or ought reasonably to know that such action is unwelcome;
- A sexual advance or solicitation made by a person where the person making the advance or solicitation knows or ought reasonably to know that it is unwelcome;
- A reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person;
- Unwelcome remarks, jokes, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life;
- Practical jokes of a sexual nature which cause awkwardness or embarrassment;
- Displaying and/or distributing pornographic pictures or other offensive material of a sexual nature, either through printed copy or personal computer;
- Leering (suggestive staring) or other gestures;
- Unnecessary physical contact such as touching, patting or pinching;
- Expressions of gender bias which may include remarks that are discriminatory, degrading or derogatory and create a poisoned work environment;
- Requests for sexual favours; and/or



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- Sexual assault.

CONSENT:

The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.
- A person who is drugged is unable to consent.
- A person is usually unable to give consent when under the influence of alcohol and/or drugs.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
- The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity.
- A person can withdraw consent at any time during the course of a sexual encounter.
- A person is incapable of giving consent to a person in a position of trust, power or authority, such as, a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to that position.
- Consent cannot be given on behalf of another person.

It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator's responsibility to know if the person they are engaging with sexually is a minor.

NOTE:

For information purposes only, the Criminal Code uses the following definition of "consent":

CONSENT:

The voluntary agreement to engage in the sexual activity in question. No consent is obtained, where:

- a) the agreement is expressed by the words or conduct of a person other than the complainant;
- b) the complainant is incapable of consenting to the activity;
- c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
- d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or



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- e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

ACQUAINTANCE SEXUAL ASSAULT:

Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

AGE OF CONSENT FOR SEXUAL ACTIVITY:

The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve and 13 year-olds can consent to have sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than 5 years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

COERCION:

In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

DRUG-FACILITATED SEXUAL ASSAULT:

The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

RAPE:

This policy refers to the offence of sexual assault to align with the current offence contained in the Criminal Code. The word “rape” is no longer used in criminal statutes in Canada. The term was replaced many years ago to acknowledge that sexual violence is not about sex but is about acts of psychological and physical violence. The term “sexual assault” provides a much broader definition and criminalizes unwanted behavior such as touching and kissing as well as unwanted oral sex and vaginal and anal intercourse. Although the term no longer has a legal meaning in Canada, the term rape is still commonly used.

STALKING:

A form of criminal harassment prohibited by the Criminal Code of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear or threaten the target’s safety or mental health. Stalking can also include threats of harm to the target’s friends and/or family. These behaviours include, but are not limited to non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; cyber-stalking; and uttering threats.

SURVIVOR:

Some who have experienced sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term “victim”. We use the term survivor throughout this policy



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where relevant because some who have experienced sexual assault believe they have overcome the violent experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.