



POLICY TITLE: Sexual Misconduct Policy
POLICY NUMBER: AM. 804
DATE APPROVED: 2017 08 30
CATEGORY: Administration (AM)
APPROVAL AUTHORITY: Lead (Administrative) Team
RESOLUTION / MINUTES REFERENCE NUMBER: 2017 08 30 LEAD Min
POLICY HOLDER: President's Office

1. POLICY STATEMENT:

The Columbia Bible College Administration, with the support of the entire CBC Community, will not tolerate any form of sexual misconduct. *The College* considers *Sexual Misconduct* a serious offence and will not tolerate behavior that may undermine the respect, dignity, self-esteem, or productivity of any student, faculty, staff, or administrative member.

The College is a Christian community that encourages its members to follow biblical principles of lifestyle and conduct in which all individuals are treated with respect and dignity. Upon joining the College, students, faculty, staff, and administration alike agree to abide by the *Responsibilities of Community Membership Statement*. The *Responsibilities of Community Membership Statement* expresses some of the lifestyle and conduct expectations that contribute to our distinctiveness as a Christian academic community.

This Policy has been adopted to expressly communicate that Sexual Misconduct will not be tolerated in the College community. Violation of this Policy and all reports of sexual misconduct will be taken seriously and dealt with in accordance with the Sexual Misconduct Procedures.

2. PURPOSE

- 2.1 The Purpose of this policy is to make clear the College's commitment to addressing Sexual Misconduct in its community through survivor support, awareness, education, training and prevention programs, and the appropriate handling of reports/complaints of incidents of Sexual Misconduct.
- 2.2 This policy is intended to set out a consistent process for responding to Sexual Misconduct that ensures that:
 - Those who experience Sexual Misconduct are treated with respect and dignity and that their rights are respected.
 - Members of the College Community understand their respective rights and obligations when reporting or responding to a Sexual Misconduct.
 - Those who are accused of committing Sexual Misconduct are treated fairly and in a manner that ensures due process.

3.0 SCOPE:

3.1 This policy applies to actions, interactions and behaviours of Members of the College Community that take place:

3.1.1 on College premises; or

3.1.2 off College premises where a Member of the College Community is involved in the business of the College or activities related to the College, or is representing the College; or

3.1.3 off College premises where such actions, interactions or behaviour of a Member of the College Community has a negative impact on another Member of the College Community such that it materially interferes with their College learning, working or living environment.

3.2 This policy operates alongside other applicable College policies and procedures such as the Responsibilities of Community Membership for Students (Student Handbook) and Employees, and the Discrimination and Harassment Policy (Policy# AM.213). Where there is a conflict or inconsistency between the provisions of this policy and another College policy or procedures, this policy governs to the extent necessary to resolve the conflict or inconsistency. The College recognizes that Sexual Misconduct is a unique area which requires a unique set of policies and procedures.

4.0 DEFINITIONS:

Consent: Consent is the ongoing voluntary agreement to engage in sexual activity and as further described in section 5.3.2.

Complainant: A person who makes a Formal Report under this policy.

Disclosure: When an individual shares information about a personal experience of Sexual Misconduct to someone who did not previously know.

Formal Report: A statement to the College by a Complainant seeking recourse related to the violation of this policy.

Members of the College Community: Those persons involved in conducting College affairs including all students, employees, volunteers, contractors and members of the College's board of directors.

Key Staff: Key staff for the purposes of this policy is Student Development staff, staff at the director level and security staff.

Administrative Team: The Administrative Team consists of the following members: President, Academic Dean, Dean of Students, and Business Administrator.

Respondent: The person alleged in a Formal Report to have violated this policy.

Retaliation: Any adverse action or threatened action, taken or made through any means, including through social or other electronic media against a Member of the College Community because that person has, in good faith, made a Disclosure, filed a Formal Report, supported the filing of a

Formal Report, disclosed information to the College about a Formal Report, and/or participated in an investigation of such Formal Report, and includes threats of Retaliation.

Contact Officer: Contact Officer means the most senior officer in Student Development, if an incident involves a student of the College and it means the most senior officer in human resources, if no student is involved. If the senior officer pursuant to the foregoing is directly involved (or alleged to be involved) in an allegation of Sexual Misconduct, the Contact Officer shall mean the President of the College. If the President is involved, the Contact Officer is the Chair of the College's board of directors.

Sexual Assault: Sexual assault is a nonconsensual sexual action done by an individual to another involving touching of a sexual nature. It includes any unwanted sexual acts and can involve a range of behaviours from unwanted touching to penetration, including through the use of force, threats, or control of another person that makes someone feel fearful, distressed, or threatened or is carried out in a way that an individual is not able to freely consent to such actions. Sexual consent is determined by lack of consent, and not by the act itself. Sexual assault is a criminal offense under the Criminal Code of Canada.

Sexual Harassment: Sexual harassment involves unwelcome sexual advances, requests for sexual favours, persistent and repeated unwanted discussion of sexual nature or other verbal or physical conduct of a sexual nature. Incidents of sexual harassment include, but are not limited to, situations when:

- Such conduct has the purpose or effect of interfering with an employee's work performance or a student's academic performance, or creating an intimidating, hostile, or offensive working or learning environment;
- Submission to such conduct is made either explicitly or implicitly as a term or condition of employment, or of the teaching and learning process; or
- Submission to or rejection of such conduct is used in employment or academic decisions affecting that employee or student.

Examples of sexual harassment include but are not limited to comments or conduct of a sexual nature such as leering, "dirty" jokes, gestures, pictures or pornographic materials, comments, suggestions, innuendos, requests or demands of a sexual nature.

Sexual Misconduct:

Sexual misconduct is an umbrella term that encompasses a broad range of behavior and includes any violence, physical or psychological, carried out without consent through a sexual means or by targeting sexuality. The term Sexual Misconduct in this Policy includes:

- (a) Sexual Assault;
- (b) Sexual exploitation;
- (c) Sexual Harassment;
- (d) Promoting sexualized violence;
- (e) Stalking;
- (f) Indecent exposure;
- (g) Voyeurism;
- (h) The attempt to commit an act listed in sections (a) to (g);
- (i) The threat to commit an act listed in sections (a) to (g);
- (j) An act listed in sections (a) to (i) that is done through electronic devices or other means.

5.0 GENERAL RESPONSIBILITIES:

5.1 General Prohibitions and Responsibilities

- 5.1.1 The College will take measures aimed at promoting a College environment free from Sexual Misconduct.
- 5.1.2 The College will take reasonable action to prevent Sexual Misconduct through education and communications and will promote the safety of all Members of the College Community.
- 5.1.3 No Member of the College Community, or non-member while on College premises or participating in a College related event (on or off College premises), may engage in any form of Sexual Misconduct against another person.
- 5.1.4 The College is committed to assisting those who have experienced Sexual Misconduct by empowering individuals to access detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic and other accommodations.

5.2 Education, Training and Prevention

- 5.2.1 The College is committed to supporting ongoing education and awareness initiatives for Members of the College Community about Sexual Misconduct prevention and about responding to the reporting of incidents of Sexual Misconduct.
- 5.2.2 The College will implement preventative strategies with respect to Sexual Misconduct. The audience for these efforts would include Members of the College Community and visitors to our campus. A particular emphasis will be placed on educating new Members of the College Community about this issue through student, staff, and faculty orientation activities.
- 5.2.3 All Members of the College Community are responsible for contributing to the prevention of, intervention in, and effective response to, Sexual Misconduct through compliance with this policy and associated procedures.

5.3 Consent

- 5.3.1 The College is committed to providing education on Consent and its relationship to Sexual Misconduct.
- 5.3.2 Consent is the ongoing voluntary agreement of a person to engage in a sexual activity. More specifically, Consent:
 - is active, not passive or silent or the absence of “no”;
 - cannot be assumed or implied from previous Consent to similar activities or from anything else;
 - is required regardless of the parties’ relationship status or sexual history together;
 - cannot be given by a person who is incapacitated by alcohol, drugs or some other reason, or who is unconscious, under the age of consent or otherwise incapable of providing consent;
 - can be revoked at any time, whatever other sexual activities have taken place;

- can never be obtained through an abuse of power, threats, intimidations, coercion, manipulation, misrepresentation or other pressure tactics; and
 - cannot be obtained if the individual abuses a position of trust or authority.
- 5.3.3 It is the responsibility of the initiator of sexual activity to obtain Consent at all stages of sexual engagement.

6.0 DISCLOSING AND RESPONDING TO SEXUAL MISCONDUCT:

6.1 Responding to Sexual Misconduct

- 6.1.1 The College will maintain online resources that can assist individuals who are subjected to, have witnessed or have knowledge of an incident of Sexual Misconduct.
- 6.1.2 The College will ensure that those likely to receive Disclosures, namely Key Staff members, full-time faculty and student leaders, receive training on responding to Sexual Misconduct and carrying out this policy.
- 6.1.3 Should Key Staff members, full-time faculty and student leaders become aware of a possible incident of Sexual Misconduct involving a Member of the College Community, whether through a Disclosure or otherwise, they should:
- Assist the Member of the College Community in accessing available support services;
 - Take appropriate action to prevent further Sexual Misconduct from occurring, including alerting campus security and calling 911 where there is imminent risk; and
 - Report the incident to the applicable Contact Officer. Reporting may or may not need to include identifying information, depending on the circumstances and risk to other Members of the College Community. This should be discussed with the Contact Officer. A support person can help in this process but the number of people involved should be minimized.
- 6.1.4 Alerting security or reporting an incident to the Contact Officer does not constitute a Formal Report.
- 6.1.5 Where the College becomes aware of incidents of Sexual Misconduct by a Member of the College Community or against a Member of the College Community, the College will take reasonable steps to ensure the safety of individuals involved and the safety of Members of the College Community.

7.0 SUPPORT:

7.1 Support Services

- 7.1.1 Support is available to any Member of the College Community making a Disclosure, irrespective of whether that individual also chooses to pursue a Formal Report or a criminal complaint. Available supports include counselling, pastoral care, peer supports and referrals to off-campus services such as health services. An individual safety plan will be developed where necessary.
- 7.1.2 Members of the College Community who feel they are in need of academic or workplace modification should speak to the appropriate Contact Officer, with the assistance of a support person if preferred.

7.2 Interim Measures

- 7.2.1 The College may impose or facilitate interim measures to support the Complainant and/or Respondent during an investigation or a proceeding.
- 7.2.2 Without limiting the generality of section 7.2.1 above, the College may determine that there is to be no contact between a Complainant and a Respondent, and/or that the Respondent may be suspended from classes, the work place or residence (as the case may be) pending the conclusion of an investigation.

8.0 FORMAL REPORTING AND INVESTIGATIONS:

8.1 Formal Report Process

- 8.1.2 A Disclosure is not a Formal Report and will not trigger an investigation unless the College becomes aware of a risk to other Members of the College Community or a Contact Officer or President of the College otherwise determines an investigation is warranted.
- 8.1.2 The College recognizes its responsibility to respond to Formal Reports in a fair, effective, and timely manner and encourages the immediate reporting of all incidents of Sexual Misconduct.
- 8.1.3 Anyone who has witnessed or has been subject to Sexual Misconduct may, but is not required to, file a Formal Report and/or criminal complaint.
- Criminal complaints can be made to the Abbotsford Police Department. If an individual chooses this route, they can seek the support of the Contact Officer or his/her designate to facilitate making this report to the police.
 - Non-criminal, Formal Reports can be made to the applicable Contact Officer, pursuant to the procedures set out for this policy or in accordance with other applicable College policies and procedures. The College will provide those who have experienced Sexual Misconduct or those who wish to file a report of Sexual Misconduct with comprehensive information about Formal Report reporting options.
- 8.1.4 Formal Reports may be made anonymously but the Complainant should be aware that this will limit the ability of the College to respond and investigate.

8.2 Right to Forego or Withdraw a Formal Report and Limitations

- 8.2.1 A Complainant has the right to forego filing a Formal Report, or to withdraw a Formal Report at any stage of the process; however, the College reserves the right to act or continue to act on a Formal Report in order to comply with its obligations under this policy and/or its legal obligations, to ensure fairness to other persons including the Respondent, and/or if the College believes that the safety of other Members of the College Community or the external community is at risk.
- 8.2.2 Reasonable efforts shall be made by the College to minimize further distress to the Complainant or others that have witnessed or been subject to Sexual Misconduct when the need to involve law enforcement authorities arises.

8.3 Formal Report Review, Investigations and Outcomes

- 8.3.1 The College will handle Formal Reports and investigations in a fair and unbiased manner with due process in accordance with this policy and the related procedures.
- 8.3.2 The College reserves the right to determine whether it will conduct an investigation into an allegation of Sexual Misconduct, whether or not law enforcement is involved and whether or not charges have been laid.

- 8.3.3 The College and investigators appointed to investigate Formal Reports are authorized to collect and use personal information and any other information that is reasonably necessary to manage and investigate Formal Reports.
- 8.3.4 The standard of proof for the finding of a breach of this policy is on a balance of probabilities.
- 8.3.5 Any Member or non-member of the College Community who is found to have committed Sexual Misconduct against another person will be held accountable and subject to sanctions and discipline as outlined within applicable College policy and laws and subject to the usual authority of the College and Members of the College Community.
- 8.3.6 Should the Respondent choose not to participate in the Formal Report investigation, the College reserves the right to take interim measures to ensure the safety of the College Community.

8.4 Appeal Process

- 8.4.1 A Respondent may appeal decisions made pursuant to investigations under this policy in writing to the Contact Officer. If the Contact Officer is the person against whom the complaint is being made, the appealing party will address the appeal to the President of Columbia Bible College. If the President is the person against whom the complaint is being made, then the appealing party will address the appeal to the Chair of the board of directors.
- 8.4.2 An appeal will be heard by a committee of the College established by the Administrative Team, whose procedures will be determined by that committee. Its decision will be final and binding on all parties, including the College, the Complainant and Respondent.

8.5 Multiple Proceedings

- 8.5.1 Where criminal and/or civil proceedings are commenced in respect of conduct that forms the basis of, or is related to the subject matter of, a Formal Report, the College may still conduct its own independent investigation into such Formal Report and make its own findings in accordance with its policies and procedures. Where there is an ongoing criminal investigation into conduct that forms the basis of, or is related to the subject matter of, a Formal Report, the College will reasonably cooperate with the law enforcement authorities in conducting its investigations.
- 8.5.2 Notwithstanding, and in addition to section 8.5.1, the College retains the discretion to continue, suspend or terminate an investigation into a Formal Report where another proceeding concerning conduct that forms the basis of, or is related to the subject matter of, a Formal Report has been initiated.

8.6 Retaliation and False Accusations

- 8.6.1 It is contrary to this policy for anyone to Retaliate, or threaten to Retaliate against a person making a Formal Report, a Disclosure, including a Complainant or anyone else for i) making, intending to make or supporting a Disclosure or Formal Report in good faith in accordance with this policy or the Procedures or; ii) pursuing rights or cooperating with investigations under other College policies or laws in relation to incidents of Sexual Misconduct.
- 8.6.2 Any Member of the College Community who undertakes, participates in or directs a Retaliation or who makes a complaint of Retaliation in bad faith, may be subject

to disciplinary action, up to and including, a letter of reprimand, revocation of privileges, suspension, expulsion or termination of employment for cause.

- 8.6.3 Formal Reports that are made with an ulterior purpose, including to purposely annoy, embarrass or harm the Respondent are considered frivolous, vexatious or bad faith Formal Reports and may result in sanctions against the Complainant and/or disciplinary action, up to and including a letter of reprimand, revocation of privileges, suspension, expulsion or termination of employment for cause.

9.0 CONFIDENTIALITY AND INFORMATION TRACKING

9.1 Confidentiality

- 9.1.1 All persons involved in a report and/or investigation of Sexual Misconduct are expected to maintain confidentiality to the extent permitted by law. The College treats Formal Reports as confidential, subject to the following:
- When an individual is judged to be at imminent risk of harming self and/or others;
 - There are reasonable grounds to believe that Members of the College Community or wider community may be at risk of harm;
 - In order to conduct a fair investigation and to promote fairness of process for all parties; and/or
 - Reporting and/or conducting an investigation as required by law, by this policy, by the College's other policies, or by an external body with appropriate authority.
- 9.1.2 Confidentiality is subject to the provisions of applicable privacy legislation such as the *Personal Information Protection Act* (British Columbia), other applicable legislation and law, and College policy.

9.2 Information Tracking and Retention of Records

- 9.2.1 The College will maintain information on the number of Formal Reports, the number and results of investigations and the corrective actions taken in response to recommendations arising out of investigations.
- 9.2.2 All records involving a Complainant and subsequent investigation of Formal Reports, but not including records related to results of investigations or corrective actions taken, will be kept in a file separate from student academic records and/or employee personnel files, however all such records may be used for purposes of future disciplinary processes.
- 9.2.3 Notwithstanding section 9.2.2, results of investigations and corrective actions taken may be included on a Respondents' student academic records and/or in employee personnel files in accordance with the related procedures.

10 Policy Review & Implementation

- 10.1 This policy will be reviewed as needed, at minimum every three years.
- 10.2 The College will carry out all necessary actions in order to implement this policy across the College and among all of the groups of Members of the College Community.