

POLICY TITLE	Sexual Violence and Misconduct
POLICY NUMBER	E-2.9
APPROVAL DATE	March 6, 2017
APPROVAL BODY	Board of Governors
REPLACES (IF APPLICABLE)	
LAST UPDATE OR AMENDMENT OR REVIEW DATE	June 8, 2020
NEXT REVIEW DATE	June 2023
HOLDER	Vice President Student Experience
RESPONSIBLE OPERATIONAL LEADER	Director Student Affairs
SUPPORTING DOCUMENTS	

SEXUAL VIOLENCE AND MISCONDUCT

1.0 PURPOSE AND/OR RATIONALE

The purpose of the Sexual Violence and Misconduct Policy (the “Policy”) is to clearly communicate Camosun College’s (“Camosun” or the “College”) commitment to prevent and respond to sexual violence and sexual misconduct through:

- a) Establishing an environment where sexual violence and misconduct are not tolerated
- b) Building and nurturing a culture of consent
- c) Identifying clear and consistent support for people who have been impacted by sexual violence or misconduct
- d) Using clear, appropriate and fair processes for handling complaints of sexual violence and misconduct
- e) Providing education, training and awareness to the College Community about prevention and response to sexual violence and misconduct.

2.0 POLICY APPLICATION, SCOPE, AND/OR LIMITS

2.1 For the purposes of this Policy, the term “Sexual Misconduct” includes both sexual violence and sexual misconduct.

2.2 This Policy applies to Sexual Misconduct by or against a Student of Camosun. This Policy also applies to reports of Sexual Misconduct from former Students where the alleged misconduct occurred when the former Student were enrolled as a Student at the College. This Policy applies to Sexual Misconduct that is alleged to have occurred at any Camosun location, to have a real or substantial connection to the College, to have occurred during online College activities or at College-related functions, whether

or not on College property. The College may accept Reports about sexual misconduct from individuals who are applicants for admission to the College, in circumstances where the alleged sexual misconduct arose directly from the application process.

2.3 This Policy does not apply to employees who have experienced Sexual Misconduct in the workplace or who require support regarding Sexual Misconduct not involving Students. Such matters should be reported to the Executive Director of Human Resources. Students who are also employees of the College may make a Report under this Policy. The College may, however, determine that another process is more appropriate in the circumstances.

2.4 This Policy is not intended to supersede or interfere with collective agreements or applicable laws. This Policy is independent of any criminal or civil proceedings involving conduct that is the subject of a Report. The College will make a determination of violation of this Policy based on the Balance of Probabilities. The processes under this Policy may be suspended in the event of a criminal investigation or proceeding.

DEFINITIONS

Balance of Probabilities: Whether on the available evidence an event is more likely than not to have occurred.

Complainant: An individual who has disclosed Sexual Misconduct and made a Report to the College.

Consent: An active, direct, voluntary, unimpaired and conscious choice and agreement to engage in sexual activity. Consent requires the willing agreement to engage in specific sexual behaviour, and requires that an individual is able to freely choose whether to engage in such behaviour or not, communicated by affirmative words and/or actions indicating willingness to participate in that activity. In considering whether consent was given, the College recognizes the following statements:

- Silence or non-communication is not consent;
- An individual is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate;
- An individual who has been threatened or coerced is not consenting to engaging in sexual / sexualized activity;
- An individual who is drugged is unable to consent;
- An individual is unable to give consent if they are impaired by alcohol and/or drugs;
- Consent given in the past does not imply consent for future sexual activity; and
- Consent can be withdrawn at any time.



It is the responsibility of the initiator of sexual activity to obtain consent at all stages of sexual engagement.

Disclosure: For the purposes of this Policy, “Disclosure” means making known information pertaining to sexual misconduct as defined in this Policy. A disclosure will not result in an investigation by the College, unless there is an immediate or compelling threat to the safety of the individual or other members of the College community.

Director: Director of Student Affairs

Employee: Any person who works at the College or is contracted to work at the College, including but not limited to faculty, staff, sessional instructors, and security personnel.

Interim Measure: A temporary measure implemented by the Office of Student Support or President pending an Investigation or Outcome. An Interim Measure except a Suspension is not appealable.

Investigation: An information gathering process in response to a Report, as described in section 4.3 of this Policy. An Investigation is undertaken to determine whether Sexual Misconduct contrary to this Policy occurred. An Investigation may include, but is not limited to: witness interviews, collection and review of written statements, notes, logs, papers, digital and print records, and any other relevant material.

Investigator: An internal or external person who conducts an Investigation.

Natural Justice: The principles of law that ensure fairness and due process to a Respondent. Natural Justice includes that the Respondent is made aware of the allegations against them and given a fair opportunity to respond, that the decision is based only on the evidence received and that the decision-maker is unbiased;

No-Contact Undertaking: A promise to the College from a Respondent to refrain from contacting another person or persons.

No Report: When an individual who has experienced Sexual Misconduct chooses not make a Report to College or Report to Police. An individual who has experienced Sexual Misconduct and does not choose to make a Report is still able to access supports, including but not limited, to counseling and academic consideration supports.

Outcome: The determination following an Investigation, which may include a consequence. For a list of possible outcomes see [E-2.5](#).

Procedural Fairness: The principles of law concerned with the procedures used by a decision-maker, rather than the actual outcome reached. It includes an absence of bias, providing a Respondent with fair notice of the allegations and an investigation, and giving them a reasonable opportunity to respond.

Report or Report to College: A formal allegation of Sexual Misconduct against a person. A Report should include all relevant particulars, where available, including a record of times, dates, nature of any incidents, and names of potential witnesses. A Report may initiate an Investigation under section 4.3 of this Policy.

Report to Police: A complaint of Sexual Misconduct made by an individual to the police.

Respondent: An individual against whom a Report has been made.

Sexual Misconduct: A broad term encompassing unwanted or unwelcomed conduct of a sexual nature. This includes sexual violence and any sexual act that is committed, threatened or attempted against an individual without their consent, regardless of whether the act is physical or psychological in nature, including, without limitation: sexual assault, sexual harassment, sexual exploitation, stalking, stealthing, indecent exposure, voyeurism, and non-consensual posting of sexually explicit pictures or video or the threat or attempt to do any such act. Sexual Misconduct is an act of violence wherein power and control are abused in a sexualized manner.

Sexual Misconduct can include, but is not limited to:

- **Sexual Assault:** any form of sexual contact without consent.
- **Acquaintance sexual assault:** sexual contact without consent that is forced, manipulated, or coerced by a partner, friend or acquaintance.
- **Drug-facilitated sexual assault:** is the intentional use of alcohol and/or drugs by a person to control, over-power or subdue another for the purposes of Sexual Assault
- **Sexual Harassment:** unwanted remarks, behaviours, or communications of a sexual nature and/or a course of unwanted remarks, behaviours or communications based on gender – whether directed towards an individual or group – where an individual responsible for the remarks, behaviours or communications knows, or ought to reasonably know, that these are unwanted. It may include, but is not limited to:
 - Sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);
 - the inappropriate display of sexually suggestive or sexualized pictures, posters, objects or graffiti;
 - non-consensual posting of explicit, sexual, or sexualized pictures or video on the Internet or otherwise;

- sexual comments and slurs on any form of social media;
 - expressions of gender bias which may include remarks that discriminate, denigrate and/or create a poisoned learning environment; and
 - sexual or sexualized conduct that interferes with an individual's dignity or privacy such as voyeurism and exhibitionism.
- **Stalking** is a form of criminal harassment involving behaviours that generally occurs on more than one occasion and which collectively instil fear in an individual/group or threaten an individual's/group's safety or mental health. Stalking can also include threats of harm to an individual's/group'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; "creeping" via social media/cyber stalking; and uttering threats
 - **Stealthing** is a form of sexual assault in which a condom is removed by one partner during a sexual encounter without knowledge or consent of the other partner.

Sexualize: To make sexual; attribute sex or a sex role to.

Student: A "Student" is a person who has been accepted to and has registered for a course or program offered by the College. A person is considered a Student under this Policy from the time of registration until that person has completed the course without registering for another course, or until that person has graduated from a program, including the period while actually engaged in the course or program, the period between registration and the commencement of the academic term, and the period between terms (including summer). A person on leave under the Involuntary Health and Safety Leave of Absence Policy is not considered a Student for the purposes of this Policy. Where a Report is made against a person who was a Student at the time of the alleged Sexual Misconduct, the College may, in its discretion, conduct an Investigation.

Student Support Manager: A designated College employee, usually within the Office of Student Support, who is responsible for: coordinating immediate supports for the individual making a Disclosure whether or not a Report is made, notifying the individual making a Disclosure of their reporting options, receiving Report(s), and liaising with additional community support services where appropriate.

Support Person: A person who acts as an emotional resource throughout all steps in the process for either the Complainant or Respondent. A Support Person should be someone a student feels comfortable with knowing the details of the incident or situation, as well as someone a student feels comfortable with being present as they recount sometimes explicit details. A Support Person should be someone who can assist a student in understanding the College's policies and procedures and help a student identify questions that they may have throughout institutional processes. The Support Person does not act as an advocate for the student.

Threat Assessment This Policy does not limit the College's right or obligation to implement threat assessment protocols to assess whether an individual's behaviour poses a risk to self or other members of the College community.

3.0 PRINCIPLES

- 3.1 Camosun is committed to providing an environment where Sexual Misconduct is not tolerated and where a culture of consent and respect is expected and demonstrated by all members of the College Community.
- 3.2 Camosun will continue to build strong, consultative and collaborative relationships with Students in supporting and implementing the College's prevention of and response to Sexual Misconduct.
- 3.3 Camosun will provide educational and training opportunities regarding Sexual Misconduct and will communicate related procedures and supports to build awareness and to encourage the reporting of any Sexual Misconduct, to prevent the occurrence of Sexual Misconduct and to build a culture of consent across the College Community.
- 3.4 Camosun acknowledges that an individual who experiences Sexual Misconduct is not to blame.
- 3.5 Camosun will treat those making Disclosures with compassion, dignity and respect.
- 3.6 Camosun will treat all Disclosures and Reports confidentially, and will respect the privacy of both Complainant and Respondent.
- 3.7 Camosun will make available timely supports for those who have been affected by Sexual Misconduct.
- 3.8 Camosun will provide individuals making Disclosures with information about reporting options available to them, both within and outside of the College.
- 3.9 Camosun will address Reports in a timely and fair way. Camosun will establish clear Procedures for making and responding to Reports. An Investigator appointed by Camosun will endeavor to complete an Investigation within 60 days of receipt of the Report. If during the course of the Investigation the Investigator believes this timeline cannot be met, the Investigator will inform the Complainant, the Respondent, and appropriate College representative as soon as possible.

- 3.10 Camosun will respond to all Reports in a manner that respects natural justice and procedural fairness and that reflects the Camosun’s responsibility for the safety and security of the College Community.
- 3.11 Camosun supports the right of Complainants and Respondents to be informed of processes and decisions relating to Reports, Investigations and Outcomes, except where precluded by law.
- 3.12 Camosun acknowledges the systemic, gender-based nature of Sexual Misconduct. Camosun supports policies and processes that provide support for individuals and groups that are at greater risk for Sexual Misconduct, such as those that experience historic or ongoing oppression (e.g. colonization, racism, classism, sexism, homophobia, transphobia, ableism, etc.). Camosun commits to ongoing reflection and capacity building to ensure its policies, processes and practices support all students who experience Sexual Misconduct.
- 3.13 The Board of Governors will receive an annual report from the President on Camosun’s implementation of this Policy.

4.0 POLICY STATEMENTS

4.1 Sexual Misconduct

- Anyone who has experienced Sexual Misconduct is encouraged to make a Disclosure, seek support and become informed on reporting options.
- Anyone who has witnessed Sexual Misconduct is encouraged to report their observations to an appropriate College Official (i.e., A Student Support Manager).
- A Student who has experienced or witnessed Sexual Misconduct may, but is not limited to some or all of:
 - seeking support and/or academic considerations;
 - making a Report to the College;
 - making a Report to Police.
- A Student Support Manager will support Students navigating post-Disclosure options and supports.
- The Department of Student Affairs will maintain up-to-date guidelines for all College employees to ensure this Policy is implemented appropriately.
- If a person experiencing or witnessing Sexual Misconduct chooses not to make a Disclosure or Report, they may still access support and accommodation services through the College, such as counselling, medical attention, and/or academic considerations, where required and reasonably possible.

4.2 Commitments to Support and Academic Consideration

- Support and/or academic consideration is available to Complainants, Respondents and witnesses involved in sexual misconduct Reports.
- Those who have experienced Sexual Misconduct may access supports, and/or academic considerations regardless of when or where Sexual Misconduct occurred, or by whom, where required and reasonably possible. In general, support and academic considerations will be coordinated by the Student Support Manager.
- The College may require additional information before providing, or in order to provide consideration of support requests.
- Support and academic considerations may involve interim measures.
- The College may impose a no contact direction or require a No Contact Undertaking to facilitate the provision of interim measures of support.
- A person experiencing Sexual Misconduct has the right to determine what, when and how much they choose to disclose about an experience of Sexual Misconduct. If a Report is made, a person alleging Sexual Misconduct may be required to provide greater information to ensure the Respondent is treated fairly.
- The College will not subject individuals to questions regarding their past sexual history.
- A person experiencing Sexual Misconduct has the right to decide whether to make a Report to College or Report to Police.
- Any person who makes a Disclosure or Report of Sexual Misconduct will not be subject to disciplinary action for any alcohol or substance use that occurred at or near the time of the incident(s).

4.3 Disclosures and Reports to College

4.3.1 Disclosures of Sexual Misconduct

A Student who has experienced Sexual Misconduct may make a Disclosure by confiding in a Student Support Manager from the Office of Student Support or another member of the College Community. A Disclosure is not the same as a Report. A Disclosure does not normally initiate an Investigation unless required by law, or pursuant to a collective agreement or other College Policy. A Student making a Disclosure will be provided with resolution options and will not be required or pressured to make a Report.

The Office of Student Support will work with individuals making Disclosures to determine appropriate support and/or academic considerations. The types and forms of support and accommodation made available will be determined on a case-by-case basis.

The College may be required to take further action on Disclosures to ensure the safety of the individual and/or the College Community, which may result in release of information received in the disclosure.

4.3.2 Reporting Sexual Misconduct to the College

4.3.2.1 Reports

A Student who has experienced Sexual Misconduct may make a Report by contacting a Student Support Manager in the Office of Student Support. A Report may be made in writing by e-mail or letter or in-person to the Office of Student Support.

E-mail: oss@camosun.ca

Web: camosun.ca/oss

Phone: 250-370-3841 or 250-270-3046

A Report to the College may be made at any time.

Upon receipt of a Report, the matter will be referred to the Director of Student Affairs to determine whether the subject matter of the Report falls within this Policy, and whether to initiate an Investigation.

The Office of Student Support will provide the Complainant with information about what to expect, possibility of academic considerations, supports available, privacy considerations and anticipated timelines for an Investigation.

4.3.2.2 Management of Sexual Misconduct Reports

- Sexual Misconduct towards a Student by a Student
 - Where the Complainant and Respondent are both Students, the Report process will be managed through the Office of Student Support
- Sexual Misconduct towards a Student by an Employee
 - Where the Complainant is a Student and the Respondent is an Employee, the Report will be provided both to the Office of Student Support and with the Executive Director, Human Resources.
 - In these instances, the Student Support Manager will facilitate coordination with Human Resources to ensure adherence to the appropriate procedures and contractual obligations contained in human resource policies and collective agreements, where applicable.

4.3.2.3 Interim Measures

- In some cases it may be necessary to implement Interim Measures prior to the conclusion of an Investigation or determination of an Outcome. Interim Measures are temporary measures put in place to ensure the safety and protection of the parties, the community, and the integrity of the process during the Investigation and decision-making process.
- Interim measures are non-disciplinary and will have no bearing on the consideration of the merits of the Report.

4.3.2.4 Investigation

Timeliness: The College will make every reasonable effort to ensure Reports are dealt with in a timely way without compromising fairness for all parties. The College will endeavor to have Investigations concluded in 60 days from time the investigator receives a Report.

Transparency:

- Parties will be advised of their rights and responsibilities related to the Report and Investigation
- Parties will be advised what to expect from the process
- Parties will be kept informed about the process
- Parties will receive regular updates on the progress of a Report
- Where possible, reasons will be provided for any final decision made with respect to a Report.

Fairness: Any Investigation will be conducted based on the principles of natural justice and procedural fairness. Any determination will be based on the Balance of Probabilities and determined by an impartial decision maker.

Where applicable, the process will be conducted consistent with the terms of any relevant collective agreement.

Trauma Informed Approach: The Investigation/decision making process will be conducted using a trauma informed approach, recognizing the impact of sexual violence on a person.

Right to Support through the Investigation and Decision Making Process: The Office of Student Support will connect Complainants and Respondents with a Support Person throughout the Investigation and decision-making process. Support for Complainants and Student Respondents will be facilitated by the Office of Student Support. Support for employees who are Respondents will be facilitated by Human Resources, consistent with any relevant collective agreement provisions. Complainants and Respondents have the right to identify an alternate Support Person to accompany them to any meetings or proceedings related to the Report or Investigation. The College publishes Guidelines with respect to Support Persons. See: <http://camosun.ca/services/student-support/documents/college-support-person.pdf>

4.3.3 Making a Report to Police

- A person may make a Report to Police by contacting the RCMP or local police detachment.
- The Student Support Manager from the Office of Student Support may facilitate such a Report to Police.
- The College will cooperate with any criminal investigation. The College may suspend its Investigation pending the conclusion of a criminal investigation or process.

4.4 Right to Withdraw Report

- A Complainant may withdraw a Report at any time. The College understands that individuals who have experienced or been affected by Sexual Misconduct may wish to control if and how their experience will be responded to by police and/or the College. A person who has experienced Sexual Misconduct may choose not to request an Investigation or to request that an Investigation not occur. In certain circumstances however, if the College believes that the safety of other members of the College Community is at risk, the College may initiate or continue an Investigation and/or inform the police of a matter, even when the Complainant has exercised their right to withdraw a Report.

4.5 Management of Information

- Students have the right to access their own personal information pursuant to the Freedom of Information and Protection of Privacy Act (FIPPA). If a Student would like access to their personal information they can request this from the Student Support Manager at any time.
- Student information will be collected, used and disclosed as required or permitted by the Freedom of Information and Protection of Privacy Act.

4.6 Confidentiality

- The privacy and confidentiality of all members of the College Community involved in any Disclosure and/or Report of Sexual Misconduct, including an Investigation of a Report, will be protected to the fullest extent possible.
- Where required by fairness or other circumstances permitted by law, the College may disclose information provided in confidence. This includes:
 - When an individual is identified as being at imminent risk of harming self and/or others
 - When there are reasonable grounds to believe that members of the College Community or wider community may be at risk of harm
 - When necessary to ensure procedural fairness
 - When a disclosure is required by law and/or other College policies
- Persons will be notified by the Student Support Manager, in accordance with privacy legislation and applicable laws and policies, if their personal information will be disclosed in grievance or arbitration processes.

4.7 Protected Disclosure

- Retaliation, threats of retaliation, or reprisals against a Complainant, witness or other individual for:
 - Having taken action under this Policy;
 - Having participated in or co-operated in a Disclosure, Report or Investigation under this Policy; or
 - Having been associated with someone who has pursued rights under this Policy will not be tolerated.

4.8 Student Consultation

- The College will consult with students every three years regarding the implementation, application and review of this Policy.
- Students will be encouraged to participate in education, training and awareness for this Policy, and will be involved in the development of these opportunities.

4.9 Education, Training and Awareness

- The College will establish education, training and awareness opportunities for the College Community regarding Sexual Misconduct Policies and Procedures, prevention and response.
- Education will include training on this Policy, the prevention of Sexual Misconduct and responding to Sexual Misconduct, with content tailored to the audience and relevant to their roles and responsibilities in relation to this Policy.
- Communication materials will be accessible to the College Community in a variety of formats.

4.10 Annual Reporting

- The President of the College will provide an annual update to the Board of Governors pertaining to the implementation of this Policy, including but not limited to:
 - Student engagement and consultation
 - Prevention, communication and awareness strategies
 - Response
- The Office of Student Support will make an annual update available to the College Community.

RELATED LEGISLATED REFERENCES

- Sexual Violence and Misconduct Policy Act
- Criminal Code of Canada
- Freedom of Information and Protection of Privacy Act
- Human Rights Code

LINKS TO RELATED CAMOSUN POLICIES, DOCUMENTS, AND/OR WEBSITES

- Student Conduct Policy <http://camosun.ca/about/policies/education-academic/e-2-student-services-and-support/e-2.5.pdf>
- Course Withdrawal <http://camosun.ca/about/policies/education-academic/e-2-student-services-and-support/e-2.2.pdf>

- Medical/Compassionate Withdrawals <http://camosun.ca/about/policies/education-academic/e-2-student-services-and-support/e-2.8.pdf>
- Records Management Policy <http://camosun.ca/about/policies/operations/o-6-information-management/o-6.2.pdf>
- Standard of Conduct <http://camosun.ca/about/policies/operations/o-5-human-resources/o-5.11.pdf>
- Respectful Workplace <http://camosun.ca/about/policies/operations/o-5-human-resources/o-5.10.pdf>