

SEXUAL VIOLENCE POLICY

This document is the parent policy for any college or divisional procedures. Questions regarding this policy are to be directed to the identified Policy Administrator.

Functional Category:	Operations
Approval Date:	May 21, 2020
Effective Date:	May 21, 2020
Policy Owner:	Chief, Customer Experience Officer
Policy Administrator:	Director, Customer Care

Objective:

All members of the NorQuest College (college) community have a right to work and study in an environment that is free from sexual violence. This document articulates the policy and outlines the principles that inform the college's response to sexual violence complaints, namely that those who experience sexual violence are believed to be disclosing in good faith, and that the college, in responding to such complaints, adheres to a process of investigation that is fair and respectful. It is this policy's intention to make individuals feel comfortable about making a report about sexual violence that they have experienced or witnessed.

Authority to establish this policy is derived from the [NorQuest College Board of Governors Policy No. 5](#), which delegates authority to the President and CEO to establish policies and procedures for the college's management and operation.

Policy:

Sexual violence is unacceptable. The college is expected to be a safe and positive space where members of the college community feel able to work, learn, and express themselves in an environment free from sexual violence.

All formal reports of sexual violence will be investigated to the best of the administration's ability and in a manner that ensures a fair process consistent with college policy and procedures.

We recognize that sexual violence can occur between individuals regardless of sexual orientation, gender, and gender identity or relationship status as articulated in the *Alberta Human Rights Act*. We also recognize that individuals who have been impacted by sexual violence may benefit from supports such as counselling, health information, academic accommodations, and access to community resources.

We are committed to:

- providing trauma-informed support services to students and employees of the college who have been impacted by sexual violence, including mental health and emotional support, resources, medical information, and third party referrals, as necessary;
- assisting those members of the college community who have experienced sexual violence in finding appropriate work or academic accommodations;
- ensuring that those who disclose that they have experienced or witnessed sexual violence are believed to be disclosing in good faith, and that their right to dignity and respect is protected throughout the process of disclosure, investigation, and institutional response;
- providing information and advice to individuals who wish to understand their choices regarding the reporting of sexual violence at the college, recognizing that they are the final decision-makers about their own best interests subject to the limits of confidentiality;

- taking appropriate action by adhering to procedures for the internal investigation and adjudication of a complaint, in accordance with college policies, procedures, and applicable collective agreements and terms and conditions, regardless of whether or not the individual chooses to make a report to the police;
- ensuring coordination and communication among the various departments that are most likely to be involved in the response to sexual violence on campus;
- providing relevant education and training to the college community that addresses harmful attitudes and behaviours that contribute to sexual violence and raises awareness of college policy and procedures related to sexual violence, with the goal of creating a campus atmosphere in which sexual violence is not tolerated.

Responding to Sexual Violence

- Members of the college community who have witnessed or experienced an incident of sexual violence, or who have reason to believe an incident of sexual violence is about to occur, are encouraged to come forward as soon as they are able to do so.
- Employees of the college, upon learning about an incident of sexual violence, are strongly encouraged to follow the procedures outlined in the Sexual Violence Procedures.
- Where the college becomes aware of incidents of sexual violence that pose a risk to the safety of members of the college community, the college shall take all reasonable steps to ensure the safety of the college community.

Complaint Process and Investigations

A complaint of sexual violence can be filed under this Policy by any member of the college community.

The college will seek to achieve procedural fairness in dealing with all complaints filed through the Office of Student Judicial Affairs or People. As such, no disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this Policy. Respondents will be provided with information of the allegations and provided with an opportunity to answer to the allegations made against them.

Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However, the college may continue to act on the issue identified in the complaint in order to comply with its obligation under this Policy and/or its legal obligations.

If a college community member does not consent to release information necessary for the investigation, the formal report may be closed.

Protection from Reprisals, Retaliation or Threats:

It is contrary to this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:

- having pursued rights under this Policy or the *Alberta Human Rights Act*;
- having participated or co-operated in an investigation under this Policy or the *Alberta Human Rights Act*; or
- having been associated with someone who has pursued rights under this Policy or the *Alberta Human Rights Act*.

Anyone engaged in such conduct may be subject to discipline up to and including termination and expulsion, consistent with the Non-Academic Misconduct Procedure and the Respectful Workplace and Learning

Environment Policy.

Confidentiality

Confidentiality is particularly important to those who have disclosed sexual violence. The college does its best to respect the confidentiality and privacy of all persons, including the complainant, respondent, and witnesses.

However, confidentiality cannot be assured in the following circumstances:

- an individual is at imminent risk of self-harm;
- an individual is at imminent risk of harming another; and/or
- there are reasonable grounds to believe that others in the college or wider community may be at risk of harm.

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the complainant would not be released to the public through official channels of college communication.

Where the college becomes aware of an allegation of sexual violence by a member of the college community against another member of the college community, the college may also have an obligation to take steps to respond to the matter in order to comply with the college's legal obligation and/or its policies to investigate such allegations. In such cases, certain college administrators will be informed to the extent necessary to respond, and to coordinate support.

Definitions:

Academic Accommodations: reasonable modifications made to the academic environment that help to remove barriers related to the functional limitations caused by physical or mental impairment. The determination of academic accommodations is made through consultation between the student and the college, while preserving the integrity of the academic standards and learning outcomes of the material in question. Examples of academic accommodations include, but are not limited to, extra time and/or isolation during testing, extensions on assignments, and the use of technology to assist in the delivery of course material.

Age of consent for sexual activity: the age at which a person can legally consent to sexual activity with someone who is not in a position of trust and authority. 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.

Complainant: A member of the college community who has disclosed or reported an incident of sexual violence.

Consent to engage in sexual activity: 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 of Canada defines "consent" as follows: the voluntary agreement to engage in the sexual activity in question. No consent is obtained, where

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

Disclosure of sexual violence: when a survivor shares information about an experience of sexual violence to an individual who did not previously know. The survivor can disclose to a college official to access support from the college as outlined in the sexual violence policy, and can expect confidentiality within the limits outlined in the policy.

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.

Formal Report: a written statement to the institution to seek recourse pursuant to the violation of policy.

Harassment: Means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker's health and safety. This may include (i) conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and (ii) a sexual solicitation or advance, but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site."

Harassment can occur between peers, students, student to faculty, faculty to student, persons in position of power, and between other individuals. Examples of harassment include (but are not limited to): gestures; remarks; jokes; taunting; innuendo; display of offensive materials; offensive graffiti; threats; verbal or physical assault; unwarranted imposition of academic penalties; hazing; stalking; shunning or exclusion.

Member of the college community: Any student, faculty, administrative or staff member of the college, member of the public serving in a recognized capacity for the college, and employee of an agency contracted by the college.

Respondent: any individual against whom an allegation of misconduct has been made under this procedure.

Sexual assault: 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 the victim 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 Harassment: unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature. Incidents of sexual harassment include, but are not limited to, situations in which:

- Such conduct has the purpose or effect of interfering with a student's academic performance or an employee's work performance, or creating an intimidating, hostile, or offensive learning or working environment;
- Submission to such conduct is made either explicitly or implicitly 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, pornographic materials, comments, suggestions, innuendos, requests or demands of a sexual nature. It can occur through the use of technology as well as in person. The behaviour need not be intentional in order to be considered sexual harassment.

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, stalking, sexual harassment and sexual assault.

Related NorQuest College Information:
Related External Information:
Next Review Date:
Revision History:

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 in the victim or threaten the victim/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; "creeping" via social media/cyber- stalking; and uttering threats.

Survivor: someone who has 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 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.

Trauma-Informed Support: an approach to providing services to people with histories of trauma that recognizes the presence of trauma symptoms and acknowledges the impact that trauma has played in their lives.

- [Code of Conduct Policy](#)
- [Non-Academic Misconduct Procedure](#)
- [Respectful Workplace and Learning Environment Policy](#)
- [Sexual Violence Procedure \(Employees\)](#)
- [Sexual Violence Procedure \(Student\)](#)

- [Alberta Human Rights Act](#)
- [Criminal Code of Canada](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Health Information Act](#)

June 2024

May 2017: new
 June 2018: modified wording, updated definitions
 August 2019: Compliance Office template & reorganization update
 December 2019: update to the definition of Harassment
 August 2019: Compliance Office template & reorganization update
 December 2019: update to the definition of Harassment
 May 2020: reviewed