



Policy Information	
Policy No:	E-1.41
Approved by:	Executive Management
Executive Approval Date:	April 28, 2017
Board Approval Date:	May 9, 2017
Executive Responsible:	Executive Vice President Academic
Administrator Responsible:	Director Student Services
Date of Next Review:	May 2018

STUDENT SEXUAL MISCONDUCT POLICY

Policy Statement

The College of New Caledonia (“the College”) is committed to creating and maintaining a campus community characterized by mutual respect and safety. Safety at the College is a priority and no form of sexual misconduct will be tolerated.

Purpose / Rationale

The purpose of this policy is to clearly state the College’s commitment to addressing sexual misconduct involving a student by:

- using clear, appropriate and fair processes for handling complaints of sexual misconduct;
- broadly communicating support services and resources;
- assisting those who have experienced sexual misconduct by providing information and support including provision of and /or referral to counselling and medical care, and appropriate academic accommodations;
- supporting both the person alleged to have experienced sexual misconduct and the person accused of sexual misconduct through the investigation process; and
- conducting training and launching educational initiatives for awareness and prevention.

Scope

This policy applies to all students of the College when:

- Sexual misconduct involving a student is alleged to have occurred on College property or at a College sponsored event; or
- Sexual misconduct involving a student is alleged to have occurred off College property where the student was acting in their capacity as a student of the College.

Where a student experiences sexual misconduct in a circumstance not listed above, the College will provide support and reasonable academic accommodations where appropriate to the student and will support the student in reporting to the RCMP if desired. However, in those circumstances, the College will not carry out its own investigation into the sexual misconduct.

Any student who has experienced sexual misconduct has the right to pursue criminal or civil legal avenues whether or not they choose to proceed under this policy.

Principles/Guidelines

Responding to Sexual Misconduct

1. The College recognizes that experiencing sexual misconduct may have serious negative impacts on an individual's physical, mental, emotional, and spiritual health and wellness.

All those who disclose an experience of sexual misconduct can expect to be:

- treated with compassion, dignity, and respect;
 - integral decision-makers in situations pertaining to themselves;
 - allowed to decide whether they want to tell someone about their experience and, if so, who;
 - provided with timely safety planning assistance;
 - informed about on- and off- campus support services and resources; and
 - where appropriate, provided with reasonable academic accommodations.
2. When a complaint of sexual misconduct is made, the College will offer support to both the person who is alleged to have experienced sexual misconduct as well as the person accused of sexual misconduct.
 3. The College will use clear, appropriate and fair processes for handling complaints of sexual misconduct.
 4. Individuals accused of sexual misconduct will be given reasonable notice, with full detail of the allegations against them and will be provided with an opportunity to answer the allegations.

For detailed procedures, please see Student Sexual Misconduct Policy Procedures.

Making a Disclosure, Complaint or Report of Sexual Misconduct

1. If sexual misconduct has been witnessed or experienced, or there is reason to believe sexual misconduct has occurred or may occur within the scope of this policy, the following options may be pursued.
 - a. Disclosure
 - i. A disclosure may be made to an employee of the College or support person on campus (e.g. Counsellor, Nurse Practitioner, Doctor, Manager, Regional Principal, Residence Advisor, Security, or Students' Union) and will not result in further action unless there is an imminent risk of harm to a person or there is otherwise a legal requirement for the College to take further action.

- ii. A person disclosing sexual misconduct may obtain supports (e.g. medical assistance, counselling) and where appropriate, reasonable academic accommodations without making a formal complaint or report.
- b. Complaint
- i. A complaint will result in the College initiating an investigation.
 - ii. The investigation process will be as described in the Student Sexual Misconduct Policy Procedures.
 - iii. The person filing the complaint may withdraw the complaint at any time. However, the College may be obligated to continue to investigate or take action in regards to the complaint under certain circumstances (for example in the circumstances set out in section 3 a-d of the Confidentiality and Information Sharing section of this Policy).
- c. Report
- i. Individuals may report their experience through the criminal justice system by contacting the RCMP.
 - ii. If a person chooses this option, the College will make available a support person on campus who can facilitate making a report.
 - iii. The College will cooperate with any criminal investigation.

Confidentiality and Information Sharing

1. The College will take steps to observe the confidentiality of all persons involved in a disclosure or complaint of sexual misconduct including the person who is alleged to have experienced sexual misconduct, the person accused of sexual misconduct and any witnesses.
2. Prior to sharing any information, the expressed consent of the individual whose information is to be released will be required, except in circumstances where limits to confidentiality, as outlined below, apply.
3. Confidentiality cannot be assured if:
 - a. an individual is judged to be at imminent risk of harm to themselves;
 - b. an individual is judged to be at imminent risk of harming another;
 - c. there is reason to believe that other members of the College Community or the broader community are at risk of harm;
 - d. principles of natural justice or procedural fairness require disclosure; and/or
 - e. reporting is required by law.

Awareness, Education and Training

1. The College will implement ongoing awareness, education and training programs relating to sexual misconduct for the College Community.

2. The College recognizes that it has a diverse student body including, but not limited to, people of different sex, gender, sexual orientation, age, ability, culture and ethnicity. Some individuals are at a greater risk of being a victim of sexual misconduct and/or face various barriers to disclosing, reporting and seeking assistance where they have experienced or witnessed sexual misconduct based on these differences. The College is committed to delivering educational initiatives that address these differences.
3. The College has campuses situated along the Highway of Tears, an area in which many women, many of them Aboriginal, have gone missing or been found murdered. The College is committed to providing educational initiatives that address the unique risks to its students travelling this route relating to sexual violence and misconduct.

Review

1. This policy will be reviewed a minimum of once every three years. Students and other members of the College Community, as appropriate, will be included in the review process.

Definitions

1. Sexual misconduct

Sexual misconduct includes the following:

- sexual assault
- sexual exploitation
- sexual harassment
- stalking
- sexual cyber harassment / cyber stalking
- indecent exposure
- voyeurism
- the non-consensual distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video
- the attempt to commit an act of sexual misconduct
- the threat to commit an act of sexual misconduct

2. Disclosure

A disclosure involves taking action to make known an incident involving sexual misconduct (this is different than a complaint or a report).

3. Complaint

A complaint is a statement of facts relating to an incident of sexual misconduct involving a student that should include: dates, times, the nature of

any incidents and names of witnesses. A complaint must contain sufficient detail to allow the College to assess the complaint and conduct an investigation if required. A complaint can be made by a student who has experienced sexual misconduct.

4. Report

A report is a statement relating to alleged sexual misconduct involving a student made to the RCMP.

5. Consent

The Criminal Code of Canada defines consent for the purposes of sexual assault offences as the voluntary agreement of the complainant to engage in the sexual activity in question. The same definition applies to this Policy. In order for there to be consent, an individual must actively, willingly and continuously consent to all sexual activity.

More specifically, consent for the purposes of this Policy:

- is not silence or the absence of “no”;
- cannot be assumed or implied;
- cannot be given by an individual incapacitated by alcohol, drugs or some other reason, and/or who is unconscious, or otherwise incapable of giving consent;
- can be revoked at any time, whatever other sexual activities have taken place;
- can never be obtained through an abuse of power, threats, intimidation, coercion or other pressure tactics;
- cannot be obtained if the other individual abuses a position of trust, power or authority; and
- cannot be assumed from previous consent to similar activities.

6. Sexual assault

Sexual assault means any form of unwanted sexual contact without consent from all parties. More specifically, sexual assault:

- includes a range of unwelcome sexual activities including oral contact (kissing), groping, touching, oral sex, vaginal or anal penetration;
- can occur if the person accused is a spouse, an intimate or dating partner, a friend or acquaintance, a known person in a position of authority or a complete stranger;
- can occur between individuals regardless of sexual orientation, sex, or gender identity; and
- can occur when an individual engages in sexual activity with another person they know, or reasonably ought to have known, is mentally or

physically incapacitated (i.e. by drug or alcohol use, unconsciousness, blackout, or as a result of a disability).

7. Sexual cyber harassment / cyber stalking

The use of technology and/or the internet to bully, harass, or intimidate others through repeated, unsolicited, threatening behaviour of a sexual nature and/or targeting sexual orientation or gender identity. See also Stalking below.

8. Sexual exploitation

Sexual exploitation of a student includes the misuse of power or trust by a person in a position of power or trust over any person, but particularly a young person or a vulnerable adult, for a sexual purpose or purposes. Sexual exploitation includes abuse of an individual through the exchange of sex or sexual acts for any purpose and includes, but is not limited to, drugs, food, shelter, protection, money, or the basics of life. The Criminal Code of Canada defines a young person as someone under 18 years of age.

9. Sexual harassment

Sexual harassment means a course of unwanted remarks, behaviours, or communications of a sexually oriented nature and/or targeting sex or gender identity where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that they are unwanted.

It includes, but is not limited to:

- Unwanted sexual solicitations, advances, remarks, suggestive comments and gestures (including songs and chants);
- the inappropriate display of sexually suggestive pictures, posters, objects or graffiti;
- non-consensual posting of sexually explicit pictures or video;
- unwanted physical contact of a sexual nature; and
- sexual contact that interferes with a person's dignity or privacy such as voyeurism and exhibitionism.

10. Stalking

Stalking is a form of criminal harassment involving behaviours that occur on more than one occasion and which collectively instill fear in a person or threaten a person's safety or mental health. Stalking can also include threats of harm to a person's friends and/or family. These behaviours include, but are not limited to, non-consensual communications (e.g. face to face, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; "creeping" via social media; cyber harassment / cyber stalking; and uttering threats. See also Sexual cyber harassment / cyber stalking.

Legislative and Collective Agreement References

Criminal Code of Canada
Sexual Violence and Misconduct Policy Act, Government of British Columbia
Article 2 of the Faculty Common Agreement

Links to Other Related Policies and Documents

Sexual Misconduct Policy Procedures
Respectful Workplace Policy
Standards of Conduct: Student Responsibility and Accountability
Student Complaint Resolution

Policy Amendment Log

Amendment Number:	Date:
0	May 9, 2017
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