

## **B3009 – SEXUALIZED VIOLENCE RESPONSE**

### **COMPLAINT PROCEDURES INVOLVING EMPLOYEE AND NON-STUDENT RESPONDENTS**

#### **Scope**

These procedures apply to individuals who have experienced or witnessed sexualized violence or misconduct where the respondent is an employee, or a non-student member of the College community.

#### **Notification without a formal complaint**

1. Any person who witnesses or knows about an incident of sexualized violence or misconduct can contact the Director, Human Resources Services to discuss the situation and review options.

#### **Formal Complaint**

2. An individual who wishes to make a formal complaint of an incident of sexualized violence or misconduct by an employee or non-student may seek advice from the Director, Human Resources Services, or delegate.
3. Individuals who wish to make a formal complaint on behalf of another person must first obtain written consent for them to act on that person's behalf. A formal complaint made on behalf of another person will only proceed if appropriate, after consultation with the individual(s) involved.
4. A formal complaint must be in writing and include the following:
  - a. Complainant name(s) and contact information. Contact information will not be shared with the respondent, witnesses, or others named in the complaint.
  - b. Respondent name(s) and contact information if known.
  - c. Description of the incident(s) including dates and time frames.
  - d. Witnesses' name(s) and contact information if known.
  - e. Date and signature
5. Individuals may submit a formal complaint to the Director, Human Resources Services or delegate.
6. If another department receives a formal complaint, it will be forwarded to the Director, Human Resources Services.
7. The formal complaint will be assessed as to the nature of the allegations and to ensure the allegations fall within the scope of the Sexualized Violence Response Policy.
8. When a matter falls within the scope of the Sexualized Violence Response Policy, the Director, Human Resources Services or delegate will review the various options with the complainant. These include:
  - a. Options for alternate resolution.
  - b. Options around an investigation.
  - c. Support and/or employment considerations options, including accommodation/leave options.

- d. Options to take no action.
9. If an individual requests no action by the College, this request will be noted in the written record. Individuals must be aware that there may be situations where the College has a duty to proceed. Should this situation arise, it will be discussed with the individual.

### Interim Measures

10. The Director, Human Resources Services or delegate may arrange or implement interim measures deemed appropriate to the circumstances. Interim measures may include, but are not limited to:
  - a. No contact undertakings or no contact directives.
  - b. Conditions on access to all or some parts of the College facilities or grounds.
  - c. Temporary, non-disciplinary leave of absence for the person alleged to have engaged in sexualized violence or misconduct.
  - d. Any other interim measure deemed appropriate by the College.

### Alternate Resolution

11. Alternate resolution is a voluntary and collaborative process used to resolve an issue without resorting to a formal investigation or as an alternative to completing an investigation. The goal of an alternate resolution is to promote reconciliation, settlement, or understanding among those involved.
12. A complainant may make a request for an alternate resolution by speaking with the Director, Human Resources Services or delegate.
13. When a request for an alternate resolution is received, the request and related information will be reviewed to determine if an alternate resolution is suitable and appropriate in the situation. An alternate resolution process will only be used if exploitation or intimidation are not a factor and if all parties agree to participate in good faith.
14. If an alternate resolution process is appropriate, agreement to participate will be sought from those involved.
15. Alternate resolution is a process that may include coordination or facilitation of one or more of the following:
  - a. Separate meetings with the individuals involved to review the concern.
  - b. Joint meeting with the individuals involved to facilitate a conversation aimed at understanding and resolving the concern.
  - c. A review of policy and expectations with individuals involved to clarify and reinforce expectations of appropriate conduct.
  - d. Training and/or coaching to enhance understanding of appropriate conduct.
  - e. Negotiating agreement between the individuals involved regarding future conduct; and/or
  - f. Follow-up with individuals involved after the alternate resolution process to ensure commitments are being adhered to.
16. If a resolution on the matter is reached, a written record of the resolution will be prepared and signed by the parties.
17. If a resolution is not reached, or if either party wishes to discontinue the process, the Director,

Human Resources Services, or delegate will review options with the parties.

18. The parties will receive a copy of the record of resolution. The original record will be kept in a confidential file located in the People and Culture Department.

### **Investigation General**

19. When the Director, Human Resources Services or delegate determines that further investigation is needed, the Director or delegate may undertake the investigation internally or may arrange for an external investigator to undertake the investigation.
20. The parties and the relevant unions will be notified of the investigation.
21. Investigations will normally commence within 15 business days of receiving a formal complaint and will normally conclude within 90 business days unless the investigation is being conducted by an external investigator.
22. Both complainant and respondent may have a support person who is a member of the College community to accompany them during the investigation. Involvement of support people who are not members of the College community shall be at the discretion of the investigator. Employees are entitled to union representation during the investigation. Students may seek support from the Langara Students' Union.
23. If the respondent ends their relationship with the College during an investigation, the investigation will continue until a decision is reached.

### **Internal Investigation**

24. When the Director, Human Resources Services or delegate determines that the matter will be investigated internally, the parties and the relevant unions will be notified of the investigation and advised of the investigation process.
25. An investigation may include any or all of the following steps:
  - a. Preliminary interviews with the complainant and respondent, followed by subsequent interviews if needed.
  - b. Review of documentary or related information.
  - c. Interviews with witnesses or others who may have relevant information.
  - d. A review and analysis of all information to determine the facts and any policy breach.

### **External Investigation**

26. When the Director, Human Resources Services or delegate determines that the matter will be investigated externally, the parties and the relevant unions will be notified of the investigation and advised of the investigation process.
  - a. The Director, Human Resources Services or delegate will work with the Vice-President, People and Culture or delegate, to arrange for the services of an external investigator.
  - b. The external investigator will establish an investigation process based on expectations outlined by the College.
  - c. The complainant and the respondent will receive a summary of the investigation findings.
  - d. The final investigation report will be kept in a confidential file located in the People and Culture Department.

### Investigation Report

27. A report of the investigation will be provided to the Director, Human Resources Services at the conclusion of the investigation and will include the following information:
- a. A review of the initial allegations.
  - b. A summary of the investigation process.
  - c. Review of the relevant sections of the Sexualized Violence Response Policy.
  - d. A summary of the evidence gathered through the investigation.
  - e. An analysis of the evidence and a finding of fact.
  - f. A determination, made on the balance of probabilities, as to whether there has been a breach of the Sexualized Violence Response Policy, or another College policy.
  - g. A summary of the effects of the breach if a breach has been identified, and
  - h. Observations related to possible contextual factors that may be considered by the College in deciding outcomes.

### Withdrawing from an Investigation

28. A complainant may withdraw from an investigation by making a written request to the Director, Human Resources Services, or delegate.
29. Except where the College has a duty to proceed, the investigation will cease, and the parties will be notified upon receipt of a complainant's request to withdraw.
30. Where the College or complainant chooses to discontinue the investigation, any evidence gathered will not be used in a prejudicial manner in any future investigations.
31. Withdrawal from an investigation will have no consequence on the individual's College status and activities.

### Duty to Proceed

32. The College reserves the right to proceed with an investigation or other action if,
- a. The allegation involves a minor.
  - b. Federal or provincial legislation requires an investigation, or
  - c. There is a reasonable assumption of risk to the individual or members of the College community.
33. Where the College is required to act based on any of the reasons outlined above, the individuals involved will be notified.

### College Response

34. When an investigation establishes that an employee or a non-student member of the College community has violated the Sexualized Violence Response Policy, the supervisor/leader may impose sanctions or other measures in accordance with applicable Collective Agreements or other terms of employment.

### Disputes

35. Any individual who has a concern about the reporting or investigation process under this policy

may notify the Vice-President, People and Culture of their concerns.

36. Disputes regarding sanctions or other disciplinary action imposed for violations of the Sexualized Violence Response Policy must be addressed as follows:
  - a. In the case of an employee, through the redress options outlined in the applicable Collective Agreement, or through other terms and conditions of employment.
  - b. In the case of any other non-student member of the College community, concerns can be brought forward to the Vice-President, People and Culture or Director, Human Resources Services.