

Title	Sexual Violence or Misconduct
Number	B3009
Category	Administration

1. PURPOSE

The purpose of this policy is to outline the processes and principles related to responding to sexualized violence or misconduct.

2. DEFINITIONS

Academic or employment accommodation – a reasonable modification made to a person’s academic program or employment situation that does not change the basic requirements of a course or job duties.

Alternate resolution – any method of resolving a matter with the help of someone who is not directly involved before an investigation is started or completed.

Balance of probabilities – a legal standard applied for deciding the outcome of a case; the probability that an event occurred is greater than fifty percent.

College community – employees, students, volunteers, contractors and other individuals who work, study or engage in business or services for the College.

Complainant – 1) a person alleging that they have experienced sexual violence or misconduct; 2) a person who has witnessed or knows about an incident of sexual violence or misconduct.

Confidentiality – the protection of private information from being disclosed to anyone who is not authorized to receive the information.

Consent – in this policy, agreement to engage in sexual or sexualized activity. Consent must be active, direct, ongoing, informed and voluntary.

Disclosure – telling someone at the College about an experience or a concern around sexual violence or misconduct to obtain support, guidance, information and/or referral. A disclosure does not initiate an investigation (*see Formal Report*).

Employee – in this policy, any individual who is or was employed at the College at the time the alleged sexual violence or misconduct occurred.

Formal report – a formal statement made by any member of the College community about an incident of sexual violence or misconduct. The purpose of making a formal report is to have the incident investigated or to seek an alternate resolution to a situation.

Interim measures – temporary actions taken by the College on a case-by-case basis to preserve the health and safety of individuals involved in an investigation or other members of the College community, and/or to maintain a safe and productive learning and working environment.

Investigation – a process of collecting and assessing information to determine the nature and circumstances of an alleged incident of sexual violence, and whether it is probable that this policy has been breached.

Legal duty to report – the obligation to make a report to relevant authorities where required by legislation (e.g., where a person under 19 years of age is at risk of being harmed, including self-harm or harming others).

Respondent – a person against whom an allegation of sexual violence or misconduct has been made.

Sanction – a consequence imposed for the conduct.

Sexual violence or misconduct – any unwanted action carried out through sexual means. See Appendix A for full definitions.

Support services – emotional, physical, advisory or referral services available either on campus or in the community; does not include legal services.

Student – in this policy, a person who is or was registered in a course or program at the College at the time the alleged sexual violence or misconduct occurred.

Trauma-informed approach – an approach based on an understanding of and responsiveness to the impact of trauma that emphasizes physical, psychological and emotional safety.

3. POLICY

3.1 General

3.1.1 Langara College (the “College”):

- Recognizes that all members of the College community should be able to work, teach and learn in an environment free from sexual harassment, discrimination and sexualized violence.
- Recognizes that everyone has the right to exercise full control over their own bodies, and to engage only in sexual activity to which they consent.
- Is committed to an environment free from sexual violence or misconduct
- Will respond promptly and effectively when incidents occur.
- Acknowledges that sexual violence or misconduct affects different communities in different ways and to a different extent. These communities include, among others:
 - People who are in the full continuum of gender identities and expression
 - Indigenous populations
 - People with disabilities
 - Racialized individuals or people from other countries
- Is committed to applying a trauma-informed approach to sexualized violence to ensure access to supports and services for anyone who needs them.

3.2 Scope

3.2.1 This policy applies to sexual violence or misconduct that is alleged to have occurred:

- on or off Langara property, including online activities or College-sponsored

- academic, athletic or social events, and
- where the interaction between the individuals involved is an extension of their relationship to Langara College.

3.3 Consent

- 3.3.1 The person who initiates sexual activity is responsible to obtain consent at all stages of sexual engagement.
- 3.3.2 Consent cannot be obtained or assumed:
- if the respondent abuses a position of trust, power or authority¹;
 - from previous consent to similar activities;
 - from an individual incapacitated by alcohol, drugs or some other reason; and/or who is unconscious or otherwise incapable of providing consent; or
 - through an abuse of power, threats, intimidation, coercion or other pressure tactics.
- 3.3.3 A person can revoke consent at any time.

3.4 Confidentiality

- 3.4.1 The College recognizes that privacy and maintaining dignity and control of personal information is particularly important to those who have experienced sexual violence or misconduct. Any personal information collected and maintained under this policy is subject to the *Freedom of Information and Protection of Privacy Act*.
- 3.4.2 The College will make every reasonable effort to maintain the confidentiality of all persons involved in any process under this policy. The College may share a limited amount of information only where it is required by law or to ensure all procedures are conducted fairly.
- 3.4.3 The College cannot ensure confidentiality in the following circumstances:
- When a person is at imminent risk of self-harm.
 - When a person is at imminent risk of harming another.
 - When it is reasonable to believe that others in the College or wider community may be at risk of harm.
 - Where there is a legal duty to report or disclose.
- 3.4.4 Confidentiality is not the same as anonymity.

3.5 Disclosure

- 3.5.1 A person may disclose an incident or concern about sexual violence or misconduct to a member of the College community to obtain support, guidance, information and/or referral.
- 3.5.2 A disclosure is not a Formal Report within the meaning of this policy, and will not prompt an investigation.
- 3.5.3 A person may disclose an incident of sexual violence to the police anytime.

¹Please see Ethical Conduct (B3003) for additional information.

3.17. Employees engaged in social relationships with co-workers are responsible to ensure that the relationship does not raise concerns about the abuse of power, harassment, favouritism, bias or conflict of interest.

3.18. Employees shall not become involved in a business or personal relationship with a student with whom there is influence, input or decision-making, for the duration of the professional relationship.

3.6 Freedom to Disclose or Report

- 3.6.1 The College recognizes that some individuals may hesitate to disclose or report incidents of sexual violence.
- 3.6.2 There are no barriers to disclosing an incident; anyone may freely and safely disclose cases involving alcohol, drugs, involvement in sex work or any other behavior.

3.7 Support

- 3.7.1 Both the person who discloses sexual violence or misconduct and the person who is alleged to have engaged in sexual violence or misconduct will be treated with dignity, compassion and respect.
- 3.7.2 The College will offer guidance and access to support services to any person involved whether or not a formal investigation takes place.
- 3.7.3 Anyone who experiences sexual violence or misconduct or who is alleged to have engaged in sexual violence or misconduct that falls outside of the scope of this policy will be able to access support services.
- 3.7.4 Support services may include referral to Counselling, Health Services, Indigenous Education and Services, and International Education; referral to external resources; safety and security planning; or support for reporting to the police. Support will be offered according to the circumstances and the wishes of the individual.

3.8 Legal Opinion or Advice

- 3.8.1 Neither the College nor any of its employees can provide legal advice to a complainant or respondent.
- 3.8.2 Support services do not include legal opinion or advice.

3.9 Temporary Academic or Employment Accommodations

- 3.9.1 A person affected by sexual violence or misconduct may request temporary academic or employment accommodations.
- 3.9.2 The College will grant accommodation as appropriate to the person's needs and circumstances, the department's requirements and the rights of others involved.
- 3.9.3 Individuals who request academic or employment accommodations under this policy are not required to file a Formal Report of sexual violence or misconduct to receive accommodation.

3.10 Interim Measures

- 3.10.1 The College may implement interim measures while it investigates an allegation of sexual violence or misconduct, or where interim measures are deemed necessary. Reasons for implementing interim measures may be to maintain a safe and productive environment or to protect the health or safety of any individual or the public.

3.11 Formal Report

- 3.11.1 Any member of the College community may make a Formal Report about sexual violence or misconduct that falls within the scope of this policy. This includes anyone not directly involved with an incident (see 3.11.3 and 3.11.4 below).
- 3.11.2 The purpose of making a Formal Report is to:
- initiate an investigation into allegations of sexual violence or misconduct, or
 - initiate an alternate resolution to a complaint of sexual violence or misconduct.
- 3.11.3 A person who is not directly involved with an incident of sexual violence or misconduct may make a formal report on behalf of, and with the consent of, the person who experienced the sexual violence or misconduct.
- 3.11.4 A person who witnessed an incident of sexual violence or misconduct that affected someone else may make a Formal Report. The College will take action only in consultation with the person who experienced the sexual violence or misconduct unless there is a legal duty to report.

3.12 Alternate Resolution

- 3.12.1 The College will offer opportunities to resolve a matter informally without resorting to an investigation, or before an investigation has begun or is completed.

3.13 Investigation

- 3.13.1 A formal report will lead to an investigation if:
- the complainant requests an investigation, and
 - the allegations fall within the scope of this policy
- 3.13.2 Investigations will be conducted fairly and will follow procedures outlined in College policy and/or employee collective agreements as applicable. Investigations will use a trauma-informed approach.
- 3.13.3 Anyone alleged to have breached this policy will be notified of the allegations and have the right to respond to them. They also have the right to an unbiased decision made about the allegations.
- 3.13.4 The decision arising from an investigation will be based on the balance of probabilities.

3.14 Investigation Outcome

- 3.14.1 Any member of the College community who is found responsible for sexual violence or misconduct may be sanctioned. The sanction may include anything up to suspension or termination from the College.
- 3.14.2 Both the person who experienced the sexual violence or misconduct and the respondent will receive a summary of the investigation findings.

3.15 Protection from Reprisals, Retaliation or Threats

- 3.15.1 No one may retaliate, engage in reprisals or threaten to retaliate against a person filing a Formal Report or for:
- pursuing rights under this policy, a relevant collective agreement, the Criminal Code or any other law;
 - participating or co-operating in an investigation under this policy, a relevant collective agreement, the Criminal Code or any other law; or
 - being associated with someone who has pursued rights under this policy, a relevant collective agreement, the Criminal Code or any other law.
- 3.15.2 Anyone who engages in reprisals, retaliation or threats of retaliation may be sanctioned.

3.16 Appeal of a Sanction

- 3.16.1 A student may appeal a sanction imposed for a violation of this policy by following the procedures outlined in the *Sexual Violence or Misconduct Policy Appeal Procedures for Students*.
- 3.16.2 An employee or other individual sanctioned under this policy may seek redress under the relevant Collective Agreement or terms of contract.

3.17 Sexual Violence or Misconduct Prevention

- 3.17.1 The College will provide education and training to students and employees to increase awareness of sexual violence, misconduct and rape culture, prevent incidents and promote effective responses to sexual violence or misconduct.
- 3.17.2 The College will make reasonable efforts to ensure that every member of the College community is aware of this policy.

3.18 Relationship to Other College Policies

- 3.18.1 This policy applies in conjunction with the College's other policies and legal obligations. Other policies include, among others, the Student Code of Conduct Policy, the Ethical Conduct Policy, the Human Rights Policy and the Respectful Workplace Policy.
- 3.18.2 This policy is not intended to conflict with the application of relevant collective agreements or the law.

3.19 Statistical Recording

- 3.19.1 To maintain accurate records for statistical and safety-planning purposes, all members of the College community who receive information about an incident of sexual violence or misconduct must provide relevant information, excluding personal identifiers, to:
- the Director, Student Conduct and Academic Integrity, where the complainant is a student; or
 - the Director, Human Resources Operations, for all other complainants.

4. RESPONSIBILITY

For questions about this policy, contact the Vice-President, People and Culture or the Director, Student Conduct and Academic Integrity.

5. REGULATIONS/PROCEDURES

[Sexual Violence or Misconduct Procedures for Students](#)

[Sexual Violence or Misconduct Procedures for Employees, Volunteers and Other Non-Student Members of the College Community](#)

History/Revision	
Origination Date	January 24, 2017
Amendment Date	June 23, 2020
Next Review Date	January 31, 2023

Appendix A

Sexual violence or misconduct is any unwanted action carried out through sexual means or by targeting sexuality, gender identity or gender expression, whether the action is physical or psychological. Sexual violence includes any attempt or threat to commit an act of sexual violence. Expanded definitions are below.

Distribution of sexually explicit imagery – sharing sexualized pictures, photos, representations of a person without consent.

Indecent or sexualized exposure – exposing one’s body to another individual for a sexual purpose or coercing another individual to remove their clothing in order to expose their body, without their consent.

Sexual abuse – unwanted sexual activity, with perpetrators using force, making threats or taking advantage of people not able to give consent.

Sexual assault – sexual contact with another person without that person’s consent. Sexual assault does not depend solely on contact with any specific part of the human anatomy but rather the act of a sexual nature that violates the sexual integrity of the victim.

Sexual exploitation – the sexual abuse of young or vulnerable individuals through the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life, and/or money.

Sexual harassment – a form of sex discrimination based on gender; unwelcome conduct of a sexual nature that detrimentally affects or interferes with the work/study environment or leads to adverse job/education-related consequences for the individual. Sexual harassment may be verbal, physical or by technological means, including but not limited to email, Internet postings, or text messaging.

Sexual trafficking – the recruitment, transportation, harbouring and/or exercising control, direction or influence over the movements of a person in order to exploit that person, typically through sexual exploitation or forced sexual labour.

Sexualized – the act of making something sexual; attributing sex or a sex role to something or someone.

Stalking – engaging in conduct that causes an individual to reasonably fear for their physical or psychological safety, or the safety of anyone known to them, such as repeatedly following or communicating through any means—including electronic—with someone, engaging in threatening conduct, or keeping watch over the place where the individual or anyone known to them happens to be. Stalking of a non-sexual nature will be addressed under other relevant College policies.

Stealthing – the act of removing a condom during sex without the consent of the partner.

Technology-facilitated sexual harassment or stalking – using technological mediums to engage in unsolicited sexual harassment or stalking.

Voyeurism – non-consensual viewing, photographing, or otherwise recording another individual in a location where there is a reasonable expectation of privacy and where the viewing, photographing or recording is done for a sexual purpose.