

APPENDIX 3

SEXUAL MISCONDUCT POLICY

The College is committed to providing its students with an educational environment free from sexual misconduct, and treating its students who report incidents of sexual misconduct with dignity and respect. The purpose of this policy is to ensure that the rights of those affected by sexual assault/sexual misconduct are respected and appropriately accommodated and ensures the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual assault/sexual misconduct accountable.

SEXUAL MISCONDUCT PREVENTION:

Sexual misconduct involving staff or students is unacceptable and will not be tolerated. The College is committed to challenging and preventing sexual assault/sexual misconduct and creating a safe space for anyone in our College community who has been affected by sexual assault/sexual violence. 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 misconduct.

DEFINITION OF SEXUAL MISCONDUCT

Sexual misconduct means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes:

- sexual exploitation
- sexual assault
- sexual harassment
- stalking
- indecent exposure
- voyeurism
- the 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 without the consent of the person in the photograph or video and with the intent to distress 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

DISCLOSURES/COMPLAINTS OF SEXUAL MISCONDUCT

A report of sexual misconduct may be filed under the policy by any member of the campus community. All members of the College are expected to report incidents of sexual misconduct they witness or have knowledge of, or they have reason to believe has occurred or may occur, to the Campus Director. Members who have been affected by sexual misconduct are encouraged to come forward to report the incident as soon as they are able to do so.

A person may choose to disclose sexual misconduct without making a formal report. In these circumstances, a disclosure/complaint may not result in a report being made and, therefore, may not initiate a formal process. In such circumstances, appropriate support will be provided on the basis of availability. An individual who discloses an allegation of sexual misconduct should be made aware that

there are a range of reporting options available to them and that they may choose any of the options or any combination of the options, including:

- a) Disclosure Only – a victim/survivor may wish to tell someone about the incident in order to seek support but may not want to make a report to police or campus authorities.
- b) Police – a victim/survivor may wish to make a formal report of a sexual assault or other criminal incident of sexual misconduct to police. Victims/ survivors should be offered the services of a campus based sexual assault response worker (where they exist) or a community-based support worker to accompany them and to provide emotional support

For the purposes of this document, a report is a formal notification of an incident of sexual misconduct to someone at the post-secondary institution accompanied by a request for action. The actual process/procedures may vary in relation to the nature of the disclosure/complaint or report (for example, whether or not there has also been a report to law enforcement).

To make a formal complaint to the College, the student should follow the Dispute Resolution Policy in the Student Handbook.

It is contrary to the policy for anyone to retaliate, engage in reprisals, or threaten to retaliate in relation to a report.

INVESTIGATING AND RESPONDING TO DISCLOSURES/ COMPLAINTS AND REPORTS OF SEXUAL MISCONDUCT:

Where a complaint of sexual misconduct has been reported to the College, the College will exercise care to protect and respect the rights and confidentiality and privacy of both the complainant and the respondent. Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual assault/sexual misconduct from occurring. The College understands that individuals who have experienced or been affected by sexual misconduct may wish to control whether and how their experience will be dealt with by the police and/or the College. In most circumstances, the person will retain this control. However, in certain circumstances, the College may be required to initiate an internal investigation and/or inform the police of the need for a criminal investigation, even without the survivor's consent, if the College believes that the safety of other members of the College community is at risk.

All reported incidents of sexual misconduct will be investigated in a manner that ensures due process as outlined in the procedures below.

1. Under this Sexual Misconduct Policy, any student of the College may file a report of an incident or a complaint to the Campus Director in writing. The other officials, offices or departments that will be involved in the investigation are the HR Director, Regional Director and Compliance Director as necessary.
2. Upon receipt of a report of an incident or a complaint of alleged sexual misconduct being made, the Campus Director will respond promptly and:
 - a) determine whether an investigation should proceed and if the Complainant wishes to participate in an investigation;

- b) The Complainant will not be asked irrelevant questions during the investigation process by the college's investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.
- c) determine who should conduct the investigation having regard to the seriousness of the allegation and the parties involved;
- d) determine whether the incident should be referred immediately to the police.

3. Once an investigation is initiated, the following will occur:

- a) The Complainant and the Respondent will be advised that they may ask another person to be present throughout the investigation;
- b) The Complainant will be interviewed to ensure a complete understanding of the allegation and gathering additional information that may not have been included in the written complaint such as the date and time of the incident, the persons involved, the names of any person who witnessed the incident and a complete description of what occurred;
- c) The Respondent will be informed of the complaint and interviewed, providing details of the allegations and giving the Respondent an opportunity to respond to those allegations and to provide any witnesses the Respondent feels are essential to the investigation;
- d) Interviews will be conducted with any person involved or who has, or may have, knowledge of the incident and any identified witnesses;
- e) Reasonable updates will be provided to the Complainant and the Respondent about the status of the investigation.

4. Following the investigation, the Campus Director will:

- a) Review all of the evidence collected during the investigation;
- b) Determine whether sexual misconduct occurred; and if so
- c) Determine what disciplinary action, if any, should be taken.

DISCIPLINARY MEASURES

If it is determined by the College that the Respondent did engage in sexual violence, immediate disciplinary or corrective action will be

taken.

- a) Where the Respondent is a Student - Sexual misconduct is a violation of the Student Code of Conduct. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences.
- b) Where the Respondent is an Employee - Sexual misconduct is a violation of the HR Employee Policy WI 1800 Workplace Conduct Allegations against employees will be addressed in accordance with the procedures set out in this Policy, and/or other College policies.

If the complaint is sustained following an investigation, the College will decide on the appropriate disciplinary actions. This may include:

- a) disciplinary action up to and including termination of employment of instructors or staff; or
- b) expulsion of a student; and /or

- c) the placement of certain restrictions on the Respondent's ability to access certain premises or facilities; and/or
- d) any other actions that may be appropriate in the circumstances., including additional training as required

APPEAL

Should the Complainant or the Respondent not agree with the decision resulting from the investigation, he or she may appeal the decision to the Regional Director within 10 days by submitting a letter addressed to Regional Director advising of the person's intent to appeal the decision. An external reviewer may be engaged if necessary.

MAKING FALSE STATEMENTS

It is a violation of this Sexual Misconduct Policy for anyone to knowingly make a false complaint of sexual Misconduct or to provide false information about a complaint.

REPRISAL

It is a violation of this Sexual Misconduct Policy to

1. Retaliate or threaten to retaliate against a complainant who has brought forward a complaint of sexual violence, provided information related to a complaint, or otherwise been involved in the complaint investigation process.
2. Discipline or sanction for violations of the college's policies relating to drug or alcohol use at the time that the alleged sexual violence occurred;

CONFIDENTIALITY AND FURTHER SUPPORT

The College's ability to investigate anonymous disclosures is hampered by the anonymous nature of the report. The College cannot investigate or follow up on an anonymous disclosure. It is this policy's intention to make individuals feel comfortable about making a report in good faith about sexual assault/sexual Misconduct that they have been affected by or witnessed. Confidentiality is particularly important to those who have disclosed sexual assault/sexual violence. The confidentiality of all persons involved in a report of sexual assault/sexual Misconduct or in subsequent disciplinary proceedings must be strictly observed, and the College does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses. The College will regard all information as unique and private and ensure it is maintained in a secured, controlled environment, following the College's file storage policy.

To the extent it is possible, the College will attempt to keep all personal information of persons involved in the investigation confidential except in those circumstances where it believes an individual is at imminent risk of self-harm, or of harming another, or there are reasonable grounds to believe that others on its campus or the broader community are at risk. This will be done by:

- a) Ensuring that all complaints/reports and information gathered as a result of the complaint/reports will be only available to those who need to know for purposes of investigation, implementing safety measures and other circumstances that arise from any given case; and

- b) Ensuring that the documentation is kept in a separate file from that of the Complainant/student or the Respondent.

the College recognizes the right of the Complainant not to report an incident of or make a complaint about sexual misconduct or not request an investigation and not to participate in any investigation that may occur.

In certain circumstances, the College may be required by law or its internal policies to initiate an internal investigation and/or inform police without the complainant's consent if it believes the safety of members of its campus or the broader community is at risk.

In all cases, the College will appropriately accommodate the needs of its students who are affected by sexual violence. Students who have been affected by sexual violence, as well as members of the college community to whom a student has disclosed an incident of sexual violence, are encouraged to access information and support from the Campus Director.