

# Sexual Misconduct Policy

**Date Policy Written or Last Modified:** August 2021

**Position(s) Responsible for Administering this Policy:** Department Heads, Student Success Coordinator(s), Managers, Directors, VPs

---

Stenberg College is committed to the prevention of, and appropriate response to, sexual misconduct.

Sexual misconduct refers to a spectrum of non-consensual sexual contact and behaviour including the following:

- sexual assault;
- sexual exploitation;
- 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; and
- the threat to commit an act of sexual misconduct.

A complaint of sexual misconduct is different than a report of sexual misconduct. A person may choose to disclose or complain of sexual misconduct without making a formal report. A report is a formal notification of an incident of sexual misconduct to someone at the institution accompanied by a request for action.

A student making a complaint will be provided with resolution options and, if appropriate, accommodation, and will not be required or pressured to make a report.

The process for making a complaint or report about sexual misconduct involving a student is as follows:

1. A student or any other member of the college community who has experienced sexual violence or misconduct or who is otherwise affected by a violation of this policy, may file a complaint under this policy by submitting the complaint in writing to the appointed Student Success Coordinator.
2. The complaint or report should set out the relevant details regarding the alleged incident of sexual violence or misconduct or other alleged violation of this policy. The complaint should include a list of any potential witnesses, along with a

description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included with the complaint.

3. 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 where it is obligated by law or by this policy to do so.

The process for responding to a complaint or report of sexual misconduct involving a student is as follows:

1. Upon receipt of a complaint or report, the Student Services Manager will conduct an initial review to determine whether the allegations in the complaint fall within the scope of this policy. This review will occur within seven calendar days of receipt of a complaint unless exceptional circumstances exist that prevent the Student Services Manager from meeting this timeline, in which case the Student Services Manager will contact the complainant as soon as possible to inform them of the revised timeline.
2. If the Student Services Manager determines that the complaint or report falls within the scope of this policy, the Student Services Manager will initiate a full investigation into the complaint or report.
3. If the Student Services Manager determines that the allegations in the complaint or report do not fall within the scope of this policy, the Student Services Manager will advise the complainant of this decision along with reasons. If the Student Services Manager believes that the complaint or report discloses other kinds of misconduct or information that the College may need to act on under another College policy or process, the Student Services Manager may refer the complaint or report or the relevant portions of the complaint or the report to the appropriate College authority. When appropriate, the Student Services Manager will consult with the person making the complaint before referring it elsewhere.

Investigation of a Complaint or Report:

1. The Student Services Manager will advise participants in the investigation of the option to have a support person present for interviews.
2. Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within 30 calendar days of the Student Services Manager's receipt of a complaint or report. If during an investigation the Student Services Manager believes that this timeline cannot be met, the Student Services Manager will contact the complainant and the respondent as soon as possible to inform them of the revised timeline.
3. In all investigations, the respondent will be informed of the allegations made against them and will be given a full opportunity to respond.

## Sexual Misconduct Policy

4. The Student Services Manager will conduct the investigation using a procedurally fair and sensitive process, taking care to minimize or avoid circumstances that might reasonably be expected to cause participants distress (e.g., the complainant having to come into direct contact with the respondent). The investigation process may include, but is not limited to, the following:
  - a. requesting a written response to the complaint or report from the respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications.
  - b. meeting separately with, or requesting further information from, the complainant.
  - c. meeting separately with, or requesting further information from, the respondent.
  - d. meeting separately with, or requesting further information from, any other individuals who may have information relevant to the investigation, including any witnesses identified by the complainant or the respondent.
  - e. obtaining any other evidence that may be relevant to the investigation.
5. At the completion of the investigation, the Student Services Manager will submit a written report to the appropriate Program Director. The report will normally include the following information:
  - a. a summary of the evidence considered.
  - b. any assessment of credibility that is required to render a determination; and
  - c. the findings of fact, and a determination as to whether, on a balance of probabilities, this policy has been violated.

### Investigation Outcomes:

1. If the Student Services Manager's report determines that sexual violence or misconduct has occurred, or that this policy has otherwise been violated, the following will occur:
  - a. the Student Services Manager will provide a copy of the report to the Department Head, applicable Program Manager, and the Program Director (the Committee).
  - b. the Committee will determine what disciplinary or other measures are appropriate based on the findings in the report.
  - c. the complainant and the respondent will be notified of the Committee's findings, and the respondent will be notified of the Committee's decision regarding disciplinary or other measures to be taken against the respondent; and,
  - d. the respondent will be notified of the option to appeal, as described below.
2. If the Committee's report determines that this policy has not been violated, the Committee will dismiss the complaint and so notify the complainant and the

# Sexual Misconduct Policy

respondent. The complainant will be notified of the option to appeal, as described below.

## Appeal Process:

1. A complainant or respondent may appeal the disciplinary decision of the Committee. An appeal will not reconsider the original complaint, although the person or body deciding the appeal has the discretion to consider any new evidence that could not reasonably have been available at the time of the original investigation.
2. An appeal must be submitted in writing within 10 business days after receipt of the decision being appealed: that is, 10 days after receipt of the Committee's findings or 10 days after receipt of the Committee's disciplinary decision, depending on the scope of the appeal. The written submission must provide specific grounds for appeal, describing how this policy was incorrectly applied, due process was not followed and/or the Committee's decision to discipline was inappropriate.

A student or other member of the college community who is not an employee of the college may submit the appeal to the VP Team by submitting it to any VP at the College.

3. The appeal may be upheld or dismissed, in whole or in part, and/or referred to the VP Team for reconsideration.
4. The person or body deciding the appeal will give reasons for the decision in writing.

It is contrary to this policy for an institution to retaliate, engage in reprisals or threaten to retaliate in relation to a complaint or a report.

Any processes undertaken pursuant to this policy will be based on the principles of administrative fairness. All parties involved will be treated with dignity and respect.

All information related to a complaint or report is confidential and will not be shared without the written consent of the parties, subject to the following exceptions:

- If an individual is at imminent risk of severe or life-threatening self-harm.
- If an individual is at imminent risk of harming another.
- There are reasonable grounds to believe that others in the institutional community may be at significant risk of harm based on the information provided.
- Where reporting is required by law.
- Where it is necessary to ensure procedural fairness in an investigation or other response to a Complaint or Report.

## Sexual Misconduct Policy

This institution is certified by the Private Training Institutions Branch (PTIB). Certified institutions must comply with regulatory requirements, including the requirement to have a Sexual Misconduct policy. For more information about PTIB, go to [www.privatetraininginstitutions.gov.bc.ca](http://www.privatetraininginstitutions.gov.bc.ca).