



Medicine Hat College Procedure SEXUAL VIOLENCE - REPORTING AND RESPONDING

Procedure #: PR-SD-01-01
Procedure Authority: Associate Vice-President, Student Development
Director, Human Resources
Executive Sponsor: Associate Vice-President, Student Development
Approved by: Associate Vice-President, Student Development
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1. PURPOSE

This procedure provides information to anyone observing or receiving reports of Sexual Violence as defined in the Medicine Hat College (MHC) Policy: *SD-01:Sexual Violence*. This procedure will outline the steps to be taken to resolve incidents as directed by the aforementioned policy. These procedures do not replace or modify individual rights guaranteed by law.

2. SUPPORTING

- SD-01 Sexual Violence (the **Policy**).

3. DEFINITIONS

All terms used throughout these procedures that are not otherwise defined herein shall have the meanings ascribed to as such under the Policy.

- **Frivolous or Vexatious Complaint:** a complaint in which a complainant makes allegations knowing them to be false or submits a complaint for a purely malicious or vexatious purpose.
- **Good Faith Disclosure:** a submission of information, that is based on reasonable belief and is not malicious, frivolous or vexatious, to the appropriate college authority.
- **Procedural Fairness/Natural Justice:** Procedural fairness, also called natural justice, requires that a person receives a fair and unbiased hearing before a decision is made that will impact on their rights or interests. What constitutes a fair and unbiased hearing will vary from case to case according to circumstances.
- **Reprisals or Retaliation:** adverse action taken against an individual for invoking this policy or for participating or cooperating in an investigation under this policy or for associating with someone who has invoked this policy or participated in the policy's procedures. This includes but is not limited to

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- a) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand;
- b) any actions or measures, other than those mentioned in item (a) above, that adversely affects the employee's or student's employment or working/learning conditions;
- c) intimidation or coercion; and
- d) harassment or discrimination.

4. PROCEDURES

4.1 Reporting and Responding to Sexual Violence

Members of the College Community should immediately report Sexual Violence incidents they witness or have knowledge of, or where they have reason to believe that Sexual Violence has occurred or may occur. Members who have experienced Sexual Violence are encouraged to come forward to report as soon as they are able to do so.

Where the College becomes aware of incidents of Sexual Violence by a member of the College Community or against a member of the College Community, which occurs on or off college property and that poses a risk to the safety of members of the College Community, the College shall take all reasonable steps to ensure the safety of the College Community.

4.2 What To Do if Someone Discloses Allegations of Sexual Violence

1. Assess Immediate Safety;
2. Inform Survivor of Limitations to Confidentiality;
3. Listen without Judgement; and
4. Refer the Individual to the appropriate support person (Director, Human Resources or Associate Vice-President, Student Development).

A person may choose to confide in someone about an act of Sexual Violence, such as a student, instructor, teaching assistant, coach, staff from residence, health, counselling or security. An individual who has experienced Sexual Violence may also disclose to staff or faculty members, or any other resource listed in Appendix C – Sexual Violence Reference and Resource Tool when seeking support and/or academic accommodation. In general, a supportive response involves

- listening without judgement and accepting the disclosure as true,
- communicating that Sexual Violence is never the fault of the survivor,
- helping the individual identify and/or access available on or off campus services including emergency medical care and counselling,
- respecting the individual's right to choose the services they feel are most appropriate and to decide whether or not to report to the police,
- recognizing that disclosing can be traumatic and an individual's ability to recall the events may be limited,
- respecting the individual's choices as to what and how much they disclose about their experience, and
- making every effort to respect confidentiality and anonymity.

4.3 Complaint Process and Investigations

A complaint of sexual assault or any other kind of Sexual Violence can be filed by any member of the College Community.

The College will seek to achieve procedural fairness in dealing with all complaints. As such, no sanction and/or disciplinary action will be taken against a person or group without their knowledge where there is an allegation of Sexual Violence. Respondents will be given reasonable notice, with full detail of the allegations and provided with an opportunity to answer to the allegations made against them.

4.3.1 Identifying the Applicable Policy to Proceed Under

4.3.1.1 Where the Respondent is a Student

Sexual Violence is a violation of the Sexual Violence and Student Non-Academic Misconduct Policies. It is considered a serious offence and if the complaint is substantiated following an investigation, the College will decide on the appropriate disciplinary actions consistent with the Student Non-Academic Misconduct Policy and Procedure.

4.3.1.2 Where the Respondent is an Employee

Sexual Violence is a violation of the Sexual Violence, Respectful Work and Learning Environment and Workplace Violence Policies. Allegations against employees will be addressed in accordance with the procedures set out in the Respectful Work and Learning Environment Complaint Process, and with any applicable collective agreement, and/or other College policies. If the complaint is substantiated following an investigation, the College will decide on the appropriate disciplinary actions consistent with the Respectful Work and Learning Environment Policy and Procedure, any applicable collective agreement, and/or other policies regarding discipline.

4.3.1.3 Where the Respondent is not a Student or an Employee

Contractors, volunteers, suppliers or visitors who attend on campus will be subject to complaints if they engage in prohibited conduct. Where a complaint against the respondent is substantiated, the College will take appropriate action.

All contractual relationships entered into by the College will be governed by a standard contract compliance clause stating that contractors must comply with all College policies. Breach of the clause may result in penalties, contract cancellation or other sanctions.

4.4 Communication

4.4.1 Communicating with Individuals who have Experienced Sexual Violence

Sensitive and timely communication with individuals who have experienced Sexual Violence and their family members (when an individual consents to this communication) is a central part of the College's first response to Sexual Violence. To facilitate communication, the College will

- Ensure designated employees respond in a prompt, compassionate and personalized fashion.

- Ensure that the person who has experienced Sexual Violence and the respondent are provided with reasonable updates about the status of the College's investigation of the incident when such investigations are undertaken.

4.4.2 Communication with Student Population

Senior leadership, in collaboration with Advancement and Communication, will communicate with students via various means, depending on the circumstances.

4.4.3 Communication with Internal College Community

College Advancement and Communications will

- (a) coordinate communications with institutional leadership including Senior Executive Council and College Leadership Council,
- (b) develop an internal and external communication plan and,
- (c) liaise with media.

5. PRINCIPLES

5.1 Multiple Proceedings

Where criminal and/or civil proceedings are commenced in respect of the allegations of Sexual Violence, the College will conduct its own independent investigation into such allegations and will make its own determination in accordance with its policies and procedures. Where there is an ongoing criminal investigation, the College will cooperate with the local police.

5.2 Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However, the College may, at its own discretion, continue to act on the issue identified in order to comply with its obligation under the College's policies and/or its legal obligations.

5.3 Protection from Reprisals, Retaliation or Threats

It is contrary to the policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for

- having pursued rights under this Policy or the *Alberta Human Rights Act*,
- having participated or co-operated in an investigation under this Policy or the *Alberta Human Rights Act*, or
- having been associated with someone who has pursued rights under the Policy or the *Alberta Human Rights Act*.

An employee engaged in such conduct may be subject to sanctions and/or disciplinary action up to and including termination for cause.

Students engaged in such conduct may be subject to suspension, dismissal or expulsion.

5.4 Frivolous or Vexatious Complaints

If a person, in good faith, discloses or files a Sexual Violence complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed.

Disclosures or complaints that are found following investigation to be frivolous, vexatious or bad faith complaints, that is, made to purposely annoy, embarrass or harm the respondent may result in sanctions and/or disciplinary action against the complainant up to and including:

For an employee - termination for cause.

For a student - suspension, dismissal or expulsion.

5.5 Confidentiality

Confidentiality is particularly important to those who have disclosed Sexual Violence. The confidentiality of all persons involved in a report of Sexual Violence must be strictly observed, and the College will take reasonable steps to maintain the confidentiality of the allegations and all persons involved including the complainant, respondent, and witnesses.

However, confidentiality cannot be assured in the following circumstances

- an individual is at imminent risk of self-harm,
- an individual is at imminent risk of harming another,
- imminent risk of harm to a minor,
- subpoena to court, and/or
- there are reasonable grounds to believe that others in the College or wider community may be at risk of harm.

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the survivor would not be released to the public. Where the College becomes aware of an allegation of Sexual Violence by a member of the College Community against another member of the College Community, the College may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with the College's legal obligation and/or its policies to investigate such allegations. In such cases, certain college administrators will be informed about the reported incident on a "need to know" and confidential basis, but not necessarily of the identities of the persons involved.

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6. ADDITIONAL INFORMATION

Appendix A – Criminal Code of Canada – Definition of Consent

Appendix B – Dispelling the Myths and Misconceptions About Sexual Assault

Appendix C – Sexual Violence Reference and Resource Tool

Appendix D – Responding to a Disclosure of Sexual Violence

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Date: February 2, 2017

DOCUMENT HISTORY

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