

# Sexual and Gender-Based Violence Policy

This document is the parent policy for any College or Divisional procedures. Questions regarding this policy are to be directed to the identified Policy Administrator.

<b>Functional category</b>	Operations
<b>Approval date</b>	October 19, 2022
<b>Effective date</b>	October 19, 2022
<b>Policy owner</b>	President & CEO
<b>Policy administrator</b>	Vice President, Learner Experience and Vice President, People & Culture

## Objective

All members of the NorQuest College (College) community have a right to work and study in an environment that is free from sexual and gender-based violence.

Sexual and gender-based violence includes emotional, psychological and/or physical violence that is threatened, attempted, or enacted. This includes abuse of or control over another based on their perceived gender, gender expression, or gender identity. Sexual and gender-based violence may include but is not limited to: emotional/psychological abuse, physical abuse, verbal abuse, financial abuse; sexual harassment; sexual violence including sexual assault, stealing, sexual exploitation, or sex trafficking; distributing sexually explicit images or recordings without consent of the individual in the image/recording; voyeurism; and stalking.

This document articulates the policy and outlines the principles that recognize the college's responsibility in promoting safe learning and work environments, and that informs the college's response to sexual violence

complaints. Specifically, those who experience sexual or gender-based violence are believed to be disclosing in good faith, and the College, when responding to such complaints, adheres to a fair and respectful process. This policy is written with the intention to support and inform individuals making a complaint about sexual or gender-based violence which they have experienced or witnessed.

The authority to establish this policy is derived from the [NorQuest College Board of Governors Policy No. 5](#), which delegates authority to the President and CEO to establish policies and procedures for the College's management and operation.

## Policy

The College is expected to be a safe space where members of the college community feel able to work, learn, and express themselves in an environment free from sexual and gender-based violence.

Sexual and gender-based violence, including rape culture, is serious and will not be tolerated. The College recognizes that sexual and gender-based violence may impact people differently depending upon their personal experience, culture, background, and role within the NorQuest community, especially as we acknowledge that institutions of higher education are structures with implicit power imbalances. Additionally, the College recognizes that sexual and gender-based violence affects people of all backgrounds and can be based on the complex intersection of individual factors including sexual orientation, gender identity, race, ethnicity, ancestry, religion, age, culture, language, disability and/or socio-economic status including all other factors protected by the [Alberta Human Rights Act](#). For this reason, the College's response will be trauma-informed, while prioritizing intersectional and anti-oppressive practices, reflecting historical context and individual needs.

### **POLICY SCOPE**

- This policy applies to all members of the college community, and disclosures or complaints against a member may be made pertaining to sexual or gender-based violence that occurred either on campus (in

person or through virtual platforms), or off campus at college-sanctioned events.

- Individuals may also seek support for instances of sexual or gender-based violence experienced or witnessed outside of the College and its members, where the survivor is a member of the college community.
- Individuals outside of the NorQuest College community are outside of the jurisdiction of this policy.
- Individuals may exercise their legal rights, should they choose, in addition to filing a complaint in accordance with this policy, as the College's policies are independent of civil and criminal legal systems.
- This policy does not replace or supersede the provisions of any collective agreement.
- This policy should be considered and interpreted in conjunction with related college policies, including the [Code of Conduct Policy](#), [Fit for Duty Policy](#), [Non-Academic Misconduct Procedure](#), [Occupational Health Safety and Environment Policy](#), [Respectful Workplace and Learning Environment Policy](#), [Student Judicial Affairs Policy](#), and [Workplace Harassment and Violence Policy](#)
- This policy prevents discipline against a community member who may otherwise have been found in violation of the drug and alcohol sections of the Non-Academic Misconduct Procedure and Fit for Duty Policy if drugs or alcohol were used in relation to the incident.

## **DISCLOSURE**

- Members of the College community who have witnessed or experienced an incident of sexual or gender-based violence, or who have reason to believe an incident of gender-based or sexual violence is about to occur, are encouraged to disclose this information as soon as they are able to do so.
- A survivor may disclose a sexual or gender-based violence matter to anyone; however, there are individuals trained in accepting such disclosures. Information on contacting trained individuals can be found in the Sexual and Gender-based Violence Procedures documents.
- Upon receiving a disclosure of sexual or gender-based violence, members of the College community are strongly encouraged to follow the course of action outlined in the Sexual and Gender-Based Violence Procedures documents along with other relevant college procedures.
- The college will provide a coordinated response with options for

supports and accommodations to survivors, alleged perpetrators, those who disclose, witnesses, and individuals who may be otherwise involved in incidences of sexual or gender-based violence. No formal investigation is necessary for a coordinated response to occur.

## **RESPONSE**

NorQuest College recognizes the existence of rape culture and the prevalence of complex and serious sexual and gender-based violence problems; we recognize the harm society has fostered in which common attitudes, norms, and practices tolerate, normalize, trivialize, excuse, or outright condone sexual or gender-based violence. We recognize our responsibility in reducing sexual and gender-based violence by raising awareness and fostering a culture of consent across our college community. As part of our efforts, we are committed to:

1. Education, awareness, and training intended to provide our community with information and resources to prevent, support, and respond to instances of sexual and gender-based violence. Our commitments include:
  - regular and ongoing training related to recognizing and responding to disclosures of sexual and gender-based violence, available to all members of the college community;
  - annual awareness and education events aimed at changing attitudes and beliefs surrounding sexual and gender-based violence; and
  - providing trauma-informed training associated with a coordinated response for employees and other related parties like Security and the Students' Association that are pivotal in the college response including, at minimum, the following: employees from the Centre for Growth & Harmony, Office of Student Judicial Affairs, People & Talent Operations, Safe Disclosure Office, Equity Office, Security and the Students' Association.
2. Responding effectively to disclosures of sexual or gender-based violence, through:
  - providing trained individuals for trauma-informed and survivor-focused support services, including mental health and emotional support, accessible resources, medical information, and third-party referrals as necessary; providing information to the campus

community for supportive and non-judgmental disclosure responses;

- assisting members of the college community who have experienced or witnessed sexual or gender-based violence with academic, work, or other accommodations where possible; and
  - facilitating transparency and a shared understanding of the scope and limits of confidentiality and anonymity related to disclosures, complaints and investigations as they pertain to college procedures.
3. Providing information to individuals who disclose, regarding their rights and options available to them, as per the Sexual and Gender-Based Violence Procedure document(s), while encouraging agency and choice, subject to the limits of confidentiality.
  4. Ensuring access to disclosure and/or investigation processes that are transparent, procedurally fair, and trauma-informed by:
    - taking appropriate action for the internal investigation and adjudication of a complaint in accordance with college policies, procedures, and applicable collective agreements and terms and conditions, regardless of whether or not the individual chooses to make a report to the police; and
    - ensuring timely coordination and communication among all relevant parties when necessary or appropriate.

## **CONFIDENTIALITY**

Confidentiality is particularly important to those who have disclosed sexual or gender-based violence. The College strives to respect the confidentiality and privacy of all persons, including the complainant(s), respondent(s), and witness(es).

The college will make every reasonable effort to maintain confidentiality of disclosed sexual and gender-based violence in accordance with the *Freedom of Information and Protection of Privacy* (FOIP) Act and the provisions of applicable collective agreements. As such, personal information will only be disclosed for the purposes of offering supports and/or investigating complaints. All information will be kept confidential; written evidence or other document will be stored in a secured location as per the college's [Records and Information Management Policy](#). Any responses to requests for access to

investigation records will be reviewed by the appropriate college contact. Responses will be provided in accordance to applicable legislation and related college policy and procedures.

The College will strive to respect a person's request not to act on a complaint of sexual or gender-based violence where possible. However, the College has a continued legal responsibility for the safety and wellbeing of its community members and may be required to pursue an investigation or take other legal steps should this safety be compromised at any time. Support will be offered to those impacted, and individuals involved will be informed throughout the investigation.

Additionally, confidentiality cannot be assured in the following circumstances:

- where the College is legally compelled to share information or law enforcement requires information for investigative purposes;
- where an individual is at imminent risk of self-harm;
- where an individual is at imminent risk of harming another;
- where there are reasonable grounds to believe that others in the College or wider community may be at risk of harm; and/or
- if there is suspected abuse involving an elder, a minor, or person with a cognitive or physical impairment.

In such circumstances, information would only be shared with necessary services and authorities to prevent or mitigate harm, and the name of the complainant would not be released to the public through official channels of college communication.

## **REPORTING**

### Anonymous/Third Party Complaints

Anonymous/third party complaints are a reporting avenue to ensure the continued safety of the College community.

Anonymous disclosures/complaints will be accepted and reviewed; however, the College's ability to respond to such disclosures may be limited due to a number of factors including a potential lack of information. In accordance with procedural fairness, during an investigation a respondent has a right to know

who has made the allegation in order to respond fully. Regardless, in such instances, appropriate supports will be offered to the complainant and/or respondent.

Community members who witness an incident of sexual or gender-based violence may share this information with the College through the avenues outlined within the appropriate procedure. As with anonymous complaints, the College's ability to effectively respond to third-party complaints may be limited by the information provided.

#### Protection from Reprisals, Retaliation, or Threats:

It is contrary to this Policy for anyone to retaliate, engage in reprisals, or threaten to retaliate against a complainant or other individual for:

- having pursued their rights under this Policy or the *Alberta Human Rights Act*;
- having participated or cooperated in an investigation under this Policy or the *Alberta Human Rights Act*; or
- having been associated with an individual who has pursued their rights under this Policy or the *Alberta Human Rights Act*.

Anyone engaged in such conduct may be subject to discipline up to, and including, termination and/or expulsion consistent with the [Non-Academic Misconduct Procedure](#) and the [Respectful Workplace and Learning Environment Policy](#).

### **PRINCIPLES AND PROCEDURAL JUSTICE IN THE COMPLAINT AND INVESTIGATION PROCESS**

A complaint of sexual or gender-based violence can be filed under this Policy by any member of the College community. NorQuest College will provide a trained response team to coordinate investigations of complaints of sexual or gender-based violence.

- Procedural fairness principles will be used to guide all complaint investigations and will be balanced with a trauma-informed approach that works to mitigate further harm to any party.
- During the investigation process, where possible, measures will be taken to minimize face-to-face encounters between parties involved in a mutual complaint.
- The principles also ensure that respondents are informed of complaints made against them, and that no disciplinary action will be taken without

their knowledge.

- A complainant has the right to withdraw a complaint at any stage of the process. However, the College may be required to continue to act on the issue(s) identified in the complaint in order to comply with its obligation under this Policy and/or its legal obligations.
- There are no time limitations on disclosures or complaints of sexual or gender-based violence. However, individuals are encouraged to file a complaint as soon as they are able, as the more time passes between the incident and the complaint, the more difficult it becomes to investigate effectively. Once a complaint is received, it will be dealt with as promptly as possible.
- Where necessary, for example, if the respondent is no longer a member of the College community, the complaint process and parties involved may be referred to external community organizations for support. If a complainant does not consent to release information necessary for the investigation, the investigative process may be closed.

## Definitions

**Academic accommodations:** Reasonable modifications made to the academic environment that help to remove barriers related to the functional limitations caused by physical or mental impairment. The determination of academic accommodations is made through consultation between the student and the college, while preserving the integrity of the academic standards and learning outcomes of the material in question. Examples of academic accommodations include, but are not limited to, extra time and/or isolation during testing, extensions on assignments, and the use of technology to assist in the delivery of course material.

**Anonymous complaints:** Instances involving a complainant filing a report themselves, but not providing information about their own identity.

**Coercion:** In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

**College community:** Any student, faculty, administrative or staff member of the College, member of the public serving in a recognized capacity for the College, or employee of an agency contracted by the College.

**Complainant:** A member of the College community who has disclosed or reported an incident of sexual or gender-based violence.

**Complaint:** Typically, a written statement alleging an incident/incidents of sexual or gender-based violence for the purpose of initiating an investigation process.

**Consent to engage in sexual activity:** The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in mutually agreed upon sexual activity. It recognizes the importance of a **Culture of Consent**. It is also imperative that everyone understands the following:

- silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent;
- a person is incapable of giving consent if they are asleep, unconscious, or otherwise unable to communicate;
- a person who has been threatened or coerced (i.e., does not agree voluntarily) into engaging in sexual activity is not consenting to it;
- a person is usually unable to give consent when under the influence of alcohol and/or drugs;
- a person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts;
- the fact that consent to a sexual or dating relationship was given in the past does not mean that consent is deemed to exist for all future sexual activity;
- a person can withdraw consent at any time during a sexual encounter;
- a person is incapable of giving consent to a person in a position of trust, power, or authority, such as a faculty member abusing their position of power, trust or authority and initiating a relationship with a student who

they teach, or an administrator abusing their position of power, trust or authority with anyone who reports to that position; and

- consent cannot be given on behalf of another person.

It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator's responsibility to know if the person they are engaging with sexually is a minor.

Note: For information purposes only, the Criminal Code of Canada defines "consent" as follows: the voluntary agreement to engage in the sexual activity in question. No consent is obtained, where:

- the agreement is expressed by the words or conduct of a person other than the complainant;
- the complainant is incapable of consenting to the activity;
- the accused induces the complainant to engage in the activity by abusing a position of trust, power, or authority;
- the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

**Culture of consent:** A culture in which the prevailing narrative of sex is centered on mutual consent. It is a culture that does not force anyone into anything, respects bodily autonomy, and is based on the belief that a person is always the best judge of their own wants and needs.

**Disclosure of sexual violence:** When a survivor shares information about an experience of sexual violence to an individual who did not previously know. The survivor can disclose to a College official to access support from the College as outlined in the Sexual and Gender-Based Violence Policy and can expect confidentiality within the limits outlined in the Policy.

**Emotional abuse:** Emotional abuse happens when a person uses words or actions to control, frighten, or isolate someone, or take away their self-respect. Emotional abuse is sometimes called psychological abuse. It can include:

- threats, put downs, name calling or insults;
- constant yelling or criticism;
- controlling or keeping someone from seeing friends or family;
- making fun of, or preventing someone from, practicing their faith or religion;
- destroying belongings, hurting pets, or threatening to do so; and
- bullying, intimidation, or humiliation (including on the internet).

**Financial abuse:** A form of domestic abuse. Withholding money, stealing money, and restricting the use of finances as a way of exerting power and control over another person (womenslaw.org definition).

**Gender-based violence:** Violence that is committed against someone based on their gender identity, gender expression, or perceived gender. The following are forms of gender-based violence: physical violence; spiritual abuse; financial abuse; online violence/technology-facilitated violence; harassment (including stalking); sexual violence (including sexual abuse, sexual harassment, sexual assault, and sexual exploitation); and emotional and psychological violence (including put-downs, bullying, threats, and intimidation) inducing intoxication, impairment or incapacity/activity and other analogous conduct. <sup>1</sup>

**Intersectionality:** The complexities of, and relationships between, the many aspects of people's identities (e.g. gender, race, ethnicity, class, sexual identity, disability/ability, age). These identities do not exist in isolation. The concept of intersectionality recognizes that each aspect of identity is related to a person's social power and affects their vulnerability to oppression and experience of sexualized violence<sup>2</sup>.

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<sup>1</sup> Khan, F., Rowe, C. J., and Bidgood, R. (2019). *Courage to Act: Developing a National Framework to Address and Prevent Gender-Based Violence at Post-Secondary Institutions in Canada*. Toronto, ON: Possibility Seeds.

<sup>2</sup> Crenshaw, Kimberlé () "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum*: Vol. 1989: Iss. 1, Article 8. Available at: <http://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8>

**Rape:** A form of sexual assault in which unlawful sexual activity, sexual touching, or penetration occurs without the individual's consent.

**Rape culture:** A culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexual violence and by blaming survivors for their own abuse.<sup>3</sup>

**Respondent:** Any individual against whom an allegation of misconduct has been made.

**Sexual assault:** A criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

**Sexual exploitation:** When a person in a position of trust or authority uses that power to start or attempt to engage in sexual activity with another person. It can be direct or indirect and may include touching, violence, coercion, or use of threats.<sup>4</sup>

**Sexual harassment:** Engaging in a course of vexatious comment or conduct (based on sex, sexual orientation, gender identity or gender expression) that is known or reasonably ought to be known to be unwelcome. The following is a list of examples that is not meant to be exhaustive (Courage to Act):

- Sexual solicitation or unwanted sexual attention from a person who knows or ought reasonably to know that such attention is unwanted;
  - a single comment or conduct may constitute sexual harassment if it is of a serious nature or egregious;
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<sup>3</sup> [Carleton University Sexual Violence Policy](#)

<sup>4</sup> [What is sexual violence?](#) (2022). Government of Alberta.

- an implied or expressed promise of reward for complying with a sexually oriented request;
- an implied or expressed threat of reprisal or actual reprisal for refusing to comply with a sexually oriented request;
- a sexual relationship that constitutes an abuse of power in a relationship of authority; or,
- a sexually oriented comment or behaviour that may reasonably be perceived to create a negative psychological and emotional environment for living, work or study;
- such conduct has the purpose or effect of interfering with a student's academic performance or an employee's work performance, or creating an intimidating, hostile, or offensive learning or working environment;
- submission to such conduct is made either explicitly or implicitly as a term or condition of employment, or of the teaching and learning process; or
- submission to or rejection of such conduct is used in employment or academic decisions affecting that employee or student.

Examples of sexual harassment include, but are not limited to, comments or conduct of a sexual nature, such as leering, "dirty" jokes, gestures, pictures, pornographic materials, comments, suggestions, innuendos, requests or demands of a sexual nature. It can occur through the use of technology as well as in person. The behaviour need not be intentional in order to be considered sexual harassment.

**Sexual violence:** Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, which is committed, threatened, or attempted against a person without the person's consent. It includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, and sexual exploitation. For further clarity, sexual assault includes rape.

**Stalking:** A form of criminal harassment prohibited by the Criminal Code of Canada. It involves behaviours that occur on more than one occasion, and which collectively instill fear in the victim or threaten the victim/target's safety or mental health. Stalking can also include threats of harm to the target's friends and/or family. These behaviours include, but are not limited to, non-consensual communications (face-to-face, phone, email, social media);

threatening or obscene gestures; surveillance; sending unsolicited gifts; “creeping” via social media/cyber-stalking; and uttering threats.

**Stealthing:** Intentionally removing, damaging, or lying about use of a prophylactic or contraceptive device (e.g. condom, female condom, other forms of birth control) when consent has only been given for protected sexual activity.

**Survivor:** An individual who has experienced sexual or gender-based violence may choose to identify as a survivor. Individuals might be more familiar with the term ‘victim’. We use the term ‘survivor’ throughout this Policy where relevant because some who have experienced sexual assault believe they have overcome the violent experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

**Third-party complaints:** A reporting avenue that allows individuals who have witnessed an incident of sexual or gender-based violence the ability to bring forward a complaint.

**Trauma-informed support:** Support that recognizes the connections between violence, trauma, and negative health outcomes when providing services to people with histories of trauma. It is based on the understanding that trauma greatly impacts memory as well as the ability to recall events in a detailed or chronological manner and that altered behaviours, along with the presence of other trauma symptoms may exist. It acknowledges the impact that trauma has played in an individual’s life, including the impacts of intergenerational trauma.

**Verbal abuse:** A form of abuse that may include put downs, threatening, blaming, criticizing and so on. It differs from profanity in that it can occur without the use of expletives (EPS).

**Voyeurism:** Non-consensual viewing, image capturing, or recording of someone to fulfill a sexual purpose.

## Related information

### NorQuest College

- [Access to Information Procedure](#)
- [Code of Conduct Policy](#)

- [Non-Academic Misconduct Procedure](#)
- [Protection of Privacy Procedure](#)
- [Respectful Workplace and Learning Environment Policy](#)
- [Records and Information Management Policy](#)
- [Safe Disclosure Policy](#)
- [Safe Disclosure Procedure](#)
- [Sexual Violence Procedure \(Employees\)](#)
- [Sexual Violence Procedure \(Student\)](#)
- [Workplace Harassment and Violence Policy](#)

## External

- [Alberta Human Rights Act](#)
- [Criminal Code of Canada](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Health Information Act](#)

## Next review date

June 2026

## Revision history

May 2017: new

June 2018: modified wording, updated definitions

August 2019: Compliance Office template & reorganization update

December 2019: update to the definition of Harassment

August 2019: Compliance Office template & reorganization update

December 2019: update to the definition of Harassment

May 2020: reviewed

October 2022: Updated to reflect the expanded scope of the policy and the College's explicit commitments to ending sexual and gender-based violence in the campus community; to reflect training and awareness activities; to expand the avenues of reporting available; and to reflect a survivor driven approach.