

## SEXUAL VIOLENCE PROCEDURE (EMPLOYEES)

This procedure is governed by its parent policy. Questions regarding this procedure are to be directed to the identified Procedure Administrator.

<b>Functional Category:</b>	Human Resources
<b>Parent Policy:</b>	Sexual Violence Policy
<b>Approval Date:</b>	May 18, 2017
<b>Effective Date:</b>	May 1, 2017
<b>Procedure Owner:</b>	President and CEO
<b>Procedure Administrator:</b>	Executive Director, Workforce Development and Human Resources

**Overview:** All members of the NorQuest College (college) community have a right to work in an environment that is free from sexual violence. This document sets out the procedures for employees of the college community who have experienced sexual violence to disclose, file a formal report, and access resources and supports.

Authority to establish this procedure 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.

**Procedures:** It is often difficult to disclose and report incidents of sexual violence. It is entirely up to the employee to choose to report the incident; however, employees are strongly encouraged to do so. A number of resources are available, including those listed below and on the college website.

Information about these resources is available through the Employee Family Assistance Program; or LifeWorks at 1-877-207-8833. There are also several other resources available in the community:

Resource	Contact
Canadian Mental Health Association, Edmonton Region	780-423-4121 <a href="https://edmonton.cmha.ca/">https://edmonton.cmha.ca/</a>
Crisis Support Centre, Distress Line	780-482-HELP (4357) <a href="http://CrisisSupportCentre.com">CrisisSupportCentre.com</a> Online chat available

Employees who have experienced sexual violence have the right to:

- be believed to be disclosing in good faith
- be treated with dignity and respect
- expect confidentiality within the limits outlined in the Sexual Violence policy
- receive information about on- and off-campus services and resources
- decide whether or not to access available services and to choose the services that they feel will be most beneficial

- decide whether to report to campus security and/or local police
- participate in any investigation undertaken by the college
- expect reasonable and necessary academic accommodations

### **Confidentiality and Privacy**

Each member of the college community has a right to privacy and to confidential information held in the strictest confidence by NorQuest College. Personal information will be collected, used, and disclosed in accordance with the *Criminal Code of Canada*, *Human Rights Act*, *Freedom of Information and Protection of Privacy* (FOIP) Act, and *Health Information Act* (HIA).

### **For Employees who have Experienced Sexual Violence**

If in imminent danger or in case of an emergency, contact 911.

For on-campus support outside of regular business hours (8 a.m. – 5 p.m.), call the after business hours line or go to the security office on the main floor of Heritage Tower. Staff at regional campuses and learning sites should direct any concerns to the Workforce Development and Human Resources office, 805, 10215- 108 street.

During regular operating hours, employees may access any of the following resources at the downtown campus:

<b>Resource</b>	<b>Contact</b>
Workforce Development and Human Resources	780-644-5901 780-644-6188
Security	780-644-6225 780-991-4573

After experiencing sexual violence, it may be difficult to know what to do. Since every person's experience is unique, employees must do what is right for them. All employees have a right to access these services, whether or not they wish to disclose or file a formal report.

### **Disclosing**

To receive support and resources with or without filing a formal report or a police report, employees can contact a trained member of the Workforce Development and Human Resources staff as listed above.

### **Filing a Formal Report**

If the respondent is a member of the College community, a formal report can be filed through the [Policy Complaint/ Public Interest Disclosure Report Form](#)

### **Filing a Police Report**

Employees who have experienced sexual violence may also wish to press charges under the *Criminal Code*. Security personnel along with Workforce Development and Human Resources staff can assist with the filing a police report.

### **Roles and Responsibilities of the College Community**

While everyone on campus has a role to play in responding to incidents of sexual violence, some employees will have specific responsibilities which might include:

- Providing access to community resources and the Employee Family Assistance Program, which may assist with safety planning and making referrals to other services, including medical services;
- Employment accommodations for those who have experienced sexual violence,

- e.g., leave with/without pay, working from home;
- Security to assist with reporting, and collaborating with local police where appropriate.

Contact information for these services as listed above.

### **How Will the College Respond to a Report of Sexual Violence?**

The college understands that individuals who have experienced sexual violence may wish to control whether and to what extent their experience will be dealt with by the police and/or the College. In most circumstances, the person will retain this control. However, 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 person's consent, if the College believes that the safety of other employees is at risk.

The college, at the complainant's request, may also refer a report of sexual violence to the police, where the persons involved are not members of the College community or in circumstances where the college is unable to initiate an internal investigation under this Policy.

#### Where the Respondent is a Student

Sexual violence is a violation of student rights and responsibilities, as outlined in the Student Judicial Affairs policy. If the complaint is substantiated following an investigation, the College will decide on the appropriate disciplinary actions consistent with policies regarding discipline.

#### Where the Respondent is an Employee

Sexual violence is a violation of the Code of Conduct and the Respectful Workplace and Learning Environment policy, and will be investigated accordingly. If the complaint is substantiated following an investigation, the college will decide on the appropriate disciplinary actions consistent with any applicable collective agreement/terms and conditions and/or policies regarding discipline.

#### Where the Respondent is not a Student or Employee

Other parties who are not students and employees, including but not limited to contractors, suppliers, volunteers, vendors, and visitors, who attend campus will be subject to complaints if they engage in prohibited conduct. Where a complaint against the respondent is substantiated, the college will take action as appropriate given the circumstances of the complaint.

#### Multiple Proceedings

Where criminal and/or civil proceedings are commenced with respect to the allegations of sexual violence, the college may 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.

#### Right to Withdraw a Complaint

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 in order to comply with its obligation under this Policy and/or its legal obligations.

If a college community member wishes to proceed with an investigation but does not consent to release information necessary for the investigation, the formal report may be closed.

**Definitions:**

**Age of consent for sexual activity:** The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve and 13 year-olds can consent to have sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than 5 years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

**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.

**Complainant:** a member of the college community who has disclosed or reported an incident of sexual violence.

**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 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. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.
- A person who is drugged is unable to consent.
- 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 was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity.
- A person can withdraw consent at any time during the course of 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 initiating a relationship with a student who they teach, an administrator in a relationship with anyone who report to that position.
- 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* defines "consent" as follows:

**Consent:** 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.

**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 violence policy, and can expect confidentiality within the limits outlined in the policy.

**Drug-facilitated sexual assault:** The use of alcohol and/or drugs (prescription or non- prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

**Employment Accommodations:** Reasonable modifications made to the employment environment that help to remove barriers related to the functional impact of physical or mental impairment. The determination of employment accommodations is made through consultation between the employee and the College, while preserving the integrity of the work environment. Examples of employment accommodations include, but are not limited to, changes in the work assignments, and working from home.

**Formal Report:** A written statement to the institution to seek recourse pursuant to the violation of policy.

**Member of the college community:** any student, faculty, administrative or staff member of the college, member of the public serving in a recognized capacity for the college, guardian of an underage student acting on behalf of the student in the college community, and employee of an agency contracted by the college.

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

**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 Harassment:** Unwelcome sexual advanced, requests for sexual favours, or other verbal or physical conduct of a sexual nature. Incidents of sexual harassment include but are not limited to, situations when:

- 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 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:** A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual harassment and sexual assault.

**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.

**Survivor:** Some who have experienced sexual 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.

**Trauma-Informed Support:** an approach to providing services to people with histories of trauma that recognizes the presence of trauma symptoms and acknowledges the impact that trauma has played in their lives.

Related Information:

- [Alberta Human Rights Act](#)
- [Code of Conduct Policy](#)
- [Respectful Workplace and Learning Environment Policy](#)
- [Code of Conduct & Respectful Workplace & Learning Environment Complaints & Investigation Procedure](#)
- [Criminal Code of Canada](#)
- [Whistleblower Policy](#)
- [Public Interest Disclosure \(Whistleblower Protection\) Procedure](#)
- [Freedom of Information and Protection of Privacy Act \(FOIP\)](#)
- [Health Information Act](#)

Related Documentation:

[Sexual Violence Procedure \(Student\)](#)

Next Review Date:

June 2018 (annual review required)

Revision History:

June 2017: New  
August 2017: Updated hyperlinks