

# Cambridge College

## Sexual Misconduct Policy

**Approved By:** Director / Operations Manager & Administrative Head

**Effective Date:** September 1, 2021

### 1. Policy and Rationale

*It is the policy of Cambridge that all students and employees have the right to study and work in a safe and secure environment that asserts the personal worth and dignity of each individual.*

*Cambridge College is committed to the prevention of and appropriate response to sexual misconduct. The purpose of the Sexual Misconduct Policy is to set out our expectations of unacceptability of any form of sexual misconduct, and procedures for making and responding to a Complaint (Disclosure) and/or Report (formal notification and request for action) of sexual misconduct involving a student.*

### 2. Review

This policy will be reviewed in consultation with students, instructors and institution staff and others as required based on feedback from experience of application and or at least every three years to ascertain if any amendments are necessary.

### Policy and Procedure

1. Cambridge College is committed to the prevention of and appropriate response to sexual misconduct. We are committed to providing a learning and teaching environment in which all members of the College feel safe and are respected. We are committed to preventing and eliminating all forms of sexual misconduct in our College and will not tolerate any form of sexual misconduct.

We are committed to providing a supportive and confidential environment where members know how to disclose or report sexual misconduct, feel safe and confident to disclose or report sexual misconduct, know that they will be listened to and responded to in a safe and trusting environment. We will provide details of all options and processes available for the individual to choose from; and options of appropriate supports and accommodations available.

We will support members (students, instructors, staff, administrators, contractors) experiencing sexual misconduct, members to whom such experiences are disclosed, witnesses and all others involved in this process.

We will ensure that all investigative and disciplinary processes are fair to both the Discloser (Complainant) and the alleged perpetrator (Respondent), and that all processes and communications are sufficiently clear and detailed, and we will provide rationale for the decision(s).

2. 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.
- passive acts of sexual misconduct such as graffiti and signage

**Scope and application:**

This policy is applicable to students registered at the College, and instructors, staff, administration, contractors employed by the College.

This policy is applicable to on site College events, off site College events, practicum, and online spaces

Institution supports, services including academic and non-academic accommodations are available to any College member who has experienced or been affected by sexual misconduct, however the College will only be able to undertake formal Investigation and Discipline process if the Respondent is member of the College i.e. student enrolled in a program at the College or instructors, staff, administration, contractors employed by the College.

3. 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.
4. 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.
5. The process for making a Complaint / Disclosure about sexual misconduct involving a student is as follows:  
A person who has experienced sexual misconduct may choose to disclose this information. A complaint / disclosure is made when the Discloser tells a College instructor or staff member that they have experienced sexual misconduct. A complaint / disclosure can be made in person, by phone or by delivering letter to reception. Sending Complaint / Disclosure to the College by email is not advised.

Where an instructor or staff member has received a disclosure in person or by phone, they may submit a disclosure on behalf of the Discloser who has disclosed experience of sexual misconduct, with their permission, by transcribing the information provided and submitting Complaint / Disclosure statement to the College Registrar.

The person receiving complaint / disclosure will be there for the individual in a supporting capacity, will listen without judgement, help to identify and/or access on site and off site resources and supports including sexual assault crises lines, health services to preserve evidence, emergency medical care or counselling as appropriate. Every effort must be made to respect confidentiality and anonymity.

The Discloser who has chosen to disclose, can choose how much information to disclose and do not need to provide the full details of their experience if they do not wish to. They will not be pressured to make a formal complaint to the institution or police.

Disclosure does not create a formal Report, and is not an instruction for the College to take action. The person who has disclosed will have the opportunity to be heard and to consider their options before proceeding with any further steps. No action will be taken immediately by the College unless there is a concern about immediate safety.

The College recognizes the importance of privacy for disclosures and reports of sexual misconduct and will only share information on a confidential, need-to-know basis. The information may be shared within the College or with external organizations/bodies to allow a case to be appropriately considered and investigated. Information will be kept confidential except if the information received suggests clear risk of harm to student(s) or staff, disclosure is required by law, for police investigation or litigation purposes.

Two senior members from Senior Education Administrator, Operations Manager and the Registrar, will review the disclosure/complaint and determine if interim measures are necessary to protect the safety of victim/survivor, other students or staff and arrange implementation of appropriate interim measures within five College working days. An Equity Advisor will be appointed (individual appointed will not be the one named in the disclosure/complaint) and provided copy of the disclosure/complaint. Equity Advisor will contact the Discloser who made the disclosure within 2 College working days to schedule first discussion meeting.

6. The process for responding to a Complaint / Disclosure of sexual misconduct involving a student is as follows:
  1. Equity Advisor will contact the person who made the disclosure (Discloser) within 2 College working days to schedule first discussion meeting.
  2. This will enable the person who has disclosed (the Discloser) to talk about what they would like to happen. The Equity Advisor will help them to consider the options and support available, to understand the role of the Equity Advisor, and to explore possible outcomes.
  3. Equity Advisor meets with the Discloser and
    - Receives Disclosure/Complaint from the Discloser
    - Answers any questions Discloser may have
    - Provides information on emergency numbers for law enforcement, medical assistance, mental health services, preventative treatment for STIs, other health services to preserve evidence, etc.
    - Provides information on the range of reporting options or combinations of options available and the processes:

- *Disclosure Only*
- *Make a Third Party Report to Police via Community Victim Service Agency*
- *Make a Report to Police*
- *Make a Report to College (written statement and request for action)*
  - a) *Request for Informal Resolution*
  - b) *Request for Formal Investigation and Discipline*
- Provides information on institution supports and services, including academic and non-academic accommodations available to the Discloser to ensure ongoing safety and success.

It is also important to note that the individual (Discloser) may change their mind. For example, they may initially choose not to make a report but may later opt to make a report to police or the College or vice versa. As noted above, victims/survivors of sexual misconduct may choose one or more of the criminal and non-criminal reporting options, depending on the incident that occurred and their own personal circumstances.

4. Equity Advisor reviews information initially provided in the Disclosure/Complaint and additional information gathered during the meeting and determines and informs the Discloser in writing, this will normally be done within five College working days of the meeting:
  - if this Policy is applicable to the alleged incident described, then provide the next steps for the victim/survivor's choice of action if they choose to proceed
  - if the allegations are not covered by this Policy or are covered by another policy therefore this does not warrant further investigation and not to proceed with the investigation. If this allegation is covered under another, then provide information about the other policy and resolution process if they choose to proceed

7. The process for making a Report (formal notification and request for action) of sexual misconduct involving a student is as follows:

After meeting with the Equity Advisor, disclosing their experience and discussing the options available, the Discloser can choose the types and levels of support that are right for them.

The Discloser may choose one or more of the criminal and non-criminal reporting options, depending on the incident that occurred and their own personal circumstances.

The Discloser submits a written Report (written statement and request for their preferred choice of action) to the Equity Advisor of their preferred choice action in writing.

8. The process for responding to a Report (formal notification and request for action) of sexual misconduct involving a student is as follows:

The Equity Advisor will review the victim/survivor's Report (formal notification and request for action) of sexual misconduct involving a student. Depending on the victim/survivor's choice of action, the Equity Advisor may commence formal investigation and discipline process within 5 College working days from receipt of the victim/survivor's Report and request for action.

*Disclosure Only (Take no further action at this time) -*

*Make a Third Party Report to Police via Community Victim Service*

*Make a report to Police*

*Report to College (written statement and request for action)*

At any time throughout the process, before a decision is rendered, a complainant may choose to withdraw their complaint. They should communicate, in writing, their decision to withdraw their complaint to the Equity Advisor. If a complaint is withdrawn, complainants and respondents can still access the support services.

- a) **Request for Informal Resolution:** Where informal resolution is appropriate and both parties agree to resolve the matter through this process, the Equity Advisor will conduct the informal resolution and decide on the appropriate mitigation. The Discloser and will also be informed of the supports and services, including academic and non-academic accommodations available to the Discloser to ensure ongoing safety and success.

### **Informal Resolution**

The person who has disclosed may choose to pursue an Informal Resolution at any time, and can always choose to make a formal complaint even if they have chosen informal resolution. When informal resolution is appropriate the Equity Advisor will arrange informal resolution to take place. Informal resolution can only go ahead on the mutual agreement of both parties.

1. A Complainant may choose to pursue an Informal Resolution at any time.
  2. Where it is determined that the Report of sexual misconduct is covered by this policy, the Equity Advisor will work with the Complainant to consider an Informal Resolution option that can help them to meaningfully address the incident.
  3. The Equity Advisor will undertake the Informal Resolution process selected by the Complainant.
  4. If the Complainant is satisfied by the actions taken through the Informal Resolution process, the Equity Advisor and the Complainant will prepare and sign a written summary of the resolution, and the Report will be deemed resolved.
  5. If no satisfactory resolution is achieved, the Complainant may consider pursuing a Formal Resolution.
- b) **Request for Formal Investigation and Discipline:** The Equity Advisor will conduct a non-criminal investigation and decide on the appropriate mitigation. The Discloser will also be

informed of the supports and services, including academic and non-academic accommodations available to the Discloser to ensure ongoing safety and success.

### **Formal Investigation and Discipline**

The person who has disclosed may choose to pursue Formal Investigation and Discipline at any time. If the person who has disclosed (now onwards referred to as the Complainant and the alleged perpetrator now onwards referred to as Respondent) chooses to pursue a Formal Investigation and Discipline, the Equity Advisor will conduct the process ensuring investigation and decision making processes are fair and in accordance with procedural fairness.

### **Process**

The Equity Advisor conducts an investigation to gather evidence and witness statements, weighs the evidence; makes findings of fact based on the evidence, and produces a final Investigative Report with determination having weighed the evidence on a balance of probabilities (“it was more likely than not”) that either:

- Sexual Misconduct did occur
- Sexual Misconduct did not occur.

The Equity Advisor will keep all information obtained during an investigation confidential, and all relevant documents, including electronic documents, will be kept in a secure location.

At any point during the investigation, the Equity Advisor may set meetings with any individual to obtain further information, ensuring that all elements of Administrative Fairness are upheld.

The Equity Advisor will make reasonable attempts to meet with the Complainant and provide them with the opportunity to submit written or other documentary evidence relevant to the case.

The Equity Advisor will make reasonable attempts to meet with the Respondent and provide them with the opportunity to submit written or other documentary evidence relevant to the case.

The Equity Advisor may also choose to seek information from other witnesses taking care to ensure that they are given a reasonable opportunity to understand the allegations and provide relevant information.

Both the Complainant and Respondent have the right to be accompanied by their legal counsel, or other support person at any point during this procedure or related processes.

The Equity Advisor will keep the Complainant and the Respondent apprised of the status of the investigation and the expected time to completion. The process is expected to be completed within thirty College working days unless there are delays due to class schedules, exams, practicum, having multiple witnesses to interview, difficulty in scheduling interviews, availability of resource persons or materials, etc. or other extenuating circumstances and the time extension will be communicated to the parties.

### **Steps**

1. The Report of Sexual Misconduct will be investigated if the Complainant chooses to pursue a Formal Investigation and Discipline by submitting written Report (formal notification and request for action), and it is determined that the Report of Sexual Misconduct is covered by this policy.
2. Within five College working days of receipt of the Report, the Equity Advisor will inform the Complainant in writing that the Report will be investigated.
3. Within five College working days of receipt of the Report, the Equity Advisor will inform the Respondent in writing that a Report has been received and that they are the subject of an investigation of a Report of Sexual Misconduct and that the Respondent will be contacted in due course and provide information for Support Services.
4. The Equity Advisor meets with the Complainant and conducts interview and to collect written or other documentary evidence relevant to the case.
5. The Equity Advisor meets with witness(es) and conducts interview and to collect written or other documentary evidence relevant to the case, taking care that the witness understands the allegations and to provide relevant information. Equity Advisor informs the witness to keep the matter confidential as disclosure could cause further harm.
6. Once the Equity Advisor has compiled a complete summary of the allegations and supporting document(s), the Equity Advisor will notify the Respondent and provide them with a copy of the draft investigative report with all information that is required for the Respondent to fully understand the allegations and provide a complete response
7. The Equity Advisor meets with the Respondent to discuss the draft investigative report and respond to the allegations. Unless there are extenuating circumstances, the Respondent will be given five College working days to provide a response. If no response is provided or the Respondent chooses not to participate, the Equity Advisor may proceed without input from the Respondent.
8. The Equity Advisor meets with other witness(es) if required and conducts investigative interview and to collect written or other documentary evidence relevant to the case, taking care that the witness understands the allegations and to provide relevant information. Equity Advisor informs the witness to keep the matter confidential as disclosure could cause further harm.
9. The Equity Advisor reviews all available evidence including the Respondent's response, weighs the evidence on balance of probabilities to determine whether there has been a violation of the Sexual Misconduct Policy or not. Within ten College working days of meetings with the Respondent and/or the last witness, the Equity Advisor will forward the final Investigative Report to the Senior Education Administrator for a decision. Time frame may be extended in extenuating circumstances and the extension will be communicated to the parties.
10. The Senior Education Administrator appoints a Delegate to review the final Investigative Report and determine the appropriate Disciplinary Penalty if there has been a violation of the Policy. The final Investigative Report is forwarded to the Registrar and the Respondent within ten College working days following receipt of the final Investigative Report by the Senior Education Administrator's Office. Time frame may be extended in extenuating circumstances and the extension will be communicated to the parties.
11. The Senior Education Administrator's Delegate reviews the Investigative Report, and either accepts the Report or seeks further clarification from the Equity Advisor about the Report, and if there has been a violation of the Policy determines the appropriate

Disciplinary Penalties and prepares a written Decision. Written Decision is forwarded to the Registrar and the Respondent within ten College working days following receipt of the final Investigative Report by the Senior Education Administrator's Office. Time frame may be extended in extenuating circumstances and the extension will be communicated to the parties.

If there is a finding that the Policy has been violated, the Senior Education Administrator's Delegate may consider the following in determining an appropriate discipline: remedy sought by the Complainant, principles of progressive discipline, College's role as an education institution, the nature and severity of the incident, and any other relevant factors.

If a Respondent is found to have engaged in Sexual Misconduct, the Senior Education Administrator's Delegate may determine and impose one or more Disciplinary Penalties. Additional Penalties applicable to employees may include change in work assignment, suspension from work for a set time period with or without pay, dismissal from employment.

The Senior Education Administrator will be responsible for ensuring the implementation and enforcement of any Disciplinary Penalties. Students who fail to fulfill the terms of the penalties will be subject to further disciplinary proceedings under the Student Code of Conduct Policy. Employees who fail to fulfill the terms of the penalties will be subject to further disciplinary proceedings under the Employee Code of Conduct Policy.

12. The Registrar will share the Decision in writing with the Complainant as appropriate to maintain obligations under privacy laws, uphold Administrative Fairness and protect the ongoing health and safety of the Complainant.

### **Review of Investigation Procedures**

In accordance with the College's Fair Processes Policy, the Respondent or the Complainant can request a review of the investigation, decision making process, or the decision where there is reason to believe that a lack of Administrative Fairness. A request for review must be submitted in writing and must set out a description of the grounds of the request consistent with the Policy.

Senior Education Administrator appoints a Review Officer. The Review Officer will issue a decision within ten (10) Working Days of their appointment. The decision will include an assessment of the investigation process and any steps to be taken to remediate flaws in the process up to and including conducting a hearing. Such a hearing will be held in accordance with the process set out in these Procedures for an appeal hearing or an oral hearing, as applicable.

### **Steps**

The Respondent has a right to appeal the decision and/or disciplinary penalties imposed by the Senior Education Administrator's Delegate under the grounds of : new evidence exists that was not available, there was a fundamental flaw in the investigation or decision making procedures, or the penalties are not reasonable in the circumstances.

A notice of Appeal must be submitted in writing, and must set out the specific grounds on which the appeal is being made and provide a summary of evidence in support of these grounds to the Senior Education Administrator within ten College working days of the date of the Decision.



If, after considering the written submissions, the Review Officer finds that the case does not meet the grounds for appeal, the Review Officer will dismiss the Appeal or Review within five (5) Working Days of receipt of the Appeal. Otherwise an appeal hearing will be conducted.

9. It is contrary to this policy for anyone to retaliate, engage in reprisals or threaten to retaliate in relation to a Complaint or a Report.

The College recognises the possibility of retaliation against any individuals associated with a disclosure or formal complaint of sexual misconduct, including the victim/survivor, witnesses, the alleged perpetrator, and staff.

If there is evidence of any behaviour or action of retaliation or expressed or implied threat of reprisal additional interim measures will be implemented. Any retaliation will be dealt with under College's Code of Conduct including initiation of criminal or other legal charges as appropriate. If there is a further incident of sexual misconduct, anti-social behaviour or any other behaviour which breaches College regulations that occurs whilst an investigation is being conducted under the Sexual Misconduct Policy, this may be considered as an aggravating factor and taken into account during decision-making.

10. 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.
11. 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

**Cambridge College** is certified with the Private Training Institutions Branch (PTIB) of the British Columbia Ministry of Advanced Education and Skills Training. For more information about PTIB and how to be an informed student, go to: <http://www.privatetraininginstitutions.gov.bc.ca/students/be-an-informed-student>.