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**Sexual Violence and Misconduct**

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Category:	Administration
Effective Date:	June 30, 2020
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**POLICY**

Northern Lights College (NLC) is committed to providing students with a learning environment that is free from sexual violence and misconduct.

**PURPOSE**

The purpose of this policy is to clearly communicate NLC's commitment to prevent and respond to sexual violence and sexual misconduct. It outlines appropriate and fair processes for handling complaints of sexual violence or misconduct.

This policy has been developed based on these principles

- NLC respects the right of all students to access its services free from sexual violence and misconduct
- NLC is committed to creating an environment where sexual violence and misconduct is not tolerated.
- NLC will build a culture of consent by offering ongoing education, awareness and training to the members of the college community about prevention and response to sexual misconduct.

**SCOPE**

This policy applies to sexual misconduct involving a student of the College, both on and off campus, that is in any way related to the student being a member of the College community. The policy includes procedures for:

- How a student can make a complaint or report of sexual misconduct.
- How the College will respond to complaints and reports of sexual misconduct involving a student.

If the sexual misconduct also involves an employee of the College, one or more of the College's other policies and/or collective agreements may also apply.

This policy does not replace the criminal process. Any individual who is a survivor of sexual misconduct or who witnesses criminal behaviour is encouraged to report that behaviour to the RCMP.

## SEXUAL MISCONDUCT PROHIBITED

Sexual misconduct of any kind by any person is prohibited.

Sexual misconduct is defined broadly to mean any unwelcome conduct of a sexual nature or that targets sexuality, whether the individuals are in a relationship, otherwise know each other, or are strangers to one another. It includes, but is not limited to, the following:

- The threat or attempt to commit sexual misconduct
- Sexual assault
- Sexual exploitation
- Sexual harassment
- Stalking
- Indecent exposure
- Voyeurism
- Distribution of sexually explicit visual material (photographs, videos) of a person without consent or with the intent to distress the person in the material

## SEXUAL MISCONDUCT PREVENTION

NLC supports and promotes the prevention of sexual misconduct in these ways:

- Educating members of the college community about this policy and its contents.
- Building a culture of consent, as defined in this policy, by offering ongoing education, awareness and training to the college community about preventing and responding to sexual misconduct.

## PROCEDURE

### COMPLAINTS AND REPORTS OF SEXUAL MISCONDUCT INVOLVING A STUDENT

**If you are in immediate danger call your local RCMP or police detachment and attempt to get somewhere safe.**

#### A. GETTING SUPPORT

Support is available to anyone who has experienced or witnessed sexual misconduct.

1. At the College, contact the Learning Support Services Department. For current contact information see the NLC webpage [www.nlc.bc.ca/Services/Learning-Support-Specialist](http://www.nlc.bc.ca/Services/Learning-Support-Specialist)
2. External agencies in the community may also be available. A list of community support resources can be found at [www.nlc.bc.ca/Student-Life/Student-Health-Wellness/Sexual\\_Violence\\_Community\\_Support](http://www.nlc.bc.ca/Student-Life/Student-Health-Wellness/Sexual_Violence_Community_Support).

Students and witnesses do not have to make a formal complaint or report to receive support. The College recognizes that there may be many reasons survivors and witnesses of sexual misconduct may hesitate to complain about or report sexual misconduct.

## **B. MAKING A COMPLAINT OR REPORT OF SEXUAL MISCONDUCT INVOLVING A STUDENT**

The College encourages anyone who experiences or witnesses sexual misconduct involving a student to make a complaint or report to the College as soon as possible. However, a complaint may be made at any time.

### **1. Students**

A student who has experienced sexual misconduct can make a complaint to the College's Director of Student Services (see below), or any employee of the College with whom the student feels comfortable.

There are two types of complaints a student can make:

1. A **disclosure complaint**, where the student wants to report the incident without the College following up with an investigation or any other action.
2. An **actionable complaint**, where the student wants the College to investigate and take action.

A student may choose to disclose the incident and then later make an actionable complaint. There is no time limit to making a complaint.

The complaint should be in writing and include:

- (a) Details of the allegation of sexual misconduct.
- (b) A list of all persons involved in the allegation.
- (c) The names and contact information of any witnesses, if available.

### **2. Witnesses**

A person who witnesses sexual misconduct involving a student can make a report about the incident to the Director or any employee of the College with whom the individual feels comfortable.

#### **Director of Student Services**

Dawson Creek Campus, Campus Centre Building

Office Number 2110F

Telephone: 250-784-7555

Email: [studentconduct@nlc.bc.ca](mailto:studentconduct@nlc.bc.ca).

## **C. RECEIVING A COMPLAINT OR REPORT OF SEXUAL MISCONDUCT INVOLVING A STUDENT**

### **1. Director of Student Services**

Where the Director receives a complaint or report of sexual misconduct involving a student, the Director should follow the Director Receipt of Complaint or Report Checklist attached to this policy, called A-5.18.01.

## **2. Employees of the College**

An employee of the College who receives a complaint or report of sexual misconduct involving a student should follow the Employee Receipt of Complaint or Report Checklist attached to this policy, called A-5.18.02.

### **D. RESPONDING TO A COMPLAINT OR REPORT OF SEXUAL MISCONDUCT INVOLVING A STUDENT**

#### **1. Responding to a disclosure complaint**

When a student makes a *disclosure complaint*, they do so with no expectation that the College will take any action beyond receiving the complaint. However, in some instances, the College has a legal obligation to take action. An example of such a legal obligation is where there may be risk to the health or safety of a member of the College.

Where the Director receives a disclosure complaint and determines the College is legally obligated to take action, they will advise the survivor and will take whatever steps are necessary.

If the Director concludes that the College is not under such a legal obligation to take action, no further action will be taken relating to the disclosure complaint unless the student consents.

#### **2. Responding to an actionable complaint**

Where the Director receives an *actionable complaint*, they will initiate an investigation within five business days.

- (a) The Director may assign the responsibility for the investigation to another College administrator or to an external investigator.
- (b) The investigator may access and use any relevant College surveillance footage as part of the investigation. In this case, the College's Video Surveillance Policy (A-5.17) will be followed.

#### **3. Responding to a report**

Where the Director receives a *report*, they will determine whether the College is legally obligated to take action (e.g., where there is a risk to the health or safety of a member of the College).

- (a) If the Director concludes that the College is legally obligated to take action, they will advise the survivor and will take all necessary steps.
- (b) If the Director concludes that the College is not legally obligated to take action, they will ask the survivor if they consent to the College taking further action on the report. If not, the Director will not take any further action.

#### **4. Investigating a complaint**

The following principles and processes apply to any investigation into an incident of sexual misconduct relating to a student:

- (a) The College will share information with those persons involved in the complaint or report as necessary to ensure the process is fair and just.
- (b) At any time before or during an investigation, the College may take interim measures to ensure the well-being of any member of the College. Examples of interim measures are a temporary leave for the person accused, or academic accommodation for the victim. The Director or investigator may suggest interim measures to the Vice President, Academic and Research who will take appropriate action. If a temporary leave is determined as being appropriate, the President will be consulted and involved in the decision. In cases of placing an academic hold, the Registrar may also be involved until the matter is resolved.
- (c) Any interim measures will be applied in a way that minimizes the impact on anyone else involved and recognizes that an individual is presumed innocent until proven otherwise. Interim measures should not be perceived as the College prejudging the matter.
- (d) The investigation will be confidential, and everyone involved is expected to maintain confidentiality throughout the entire process unless otherwise required by law.
- (e) If the outcome of the investigation is that sexual misconduct involving a student occurred, the College will take prompt, appropriate action. This may include taking steps to ensure the safety and well-being of the survivor and other members of the College and disciplining the perpetrator up to and including expelling or terminating the person from the College. Other steps may also be taken.
- (f) If the outcome of the investigation is that the allegation of sexual misconduct is unsubstantiated, the College will promptly notify the individuals involved. Support will be available to the parties to the allegation. The College will take all reasonable steps to minimize adverse effects to the person accused. The College may take measures to ensure the safety and well-being of members of the College, but such measures will **not** include disciplining those involved in the complaint unless they engaged in misconduct in the course of the investigation or in making or responding to the complaint.

#### **E. APPEALING AN INVESTIGATION DECISION**

A student has a right to appeal under the Student Appeals Policy a decision that sexual misconduct has occurred and results in one or more of the following outcomes:

- (a) The student is required to withdraw from their program or courses
- (b) The student is placed under academic monitoring
- (c) The student is required to sign a behaviour contract
- (d) The student is dismissed from the College

An appeal will be heard only if:

- (a) the decision was based on inaccurate or incomplete information, or
- (b) the decision was made by College representatives before completing all steps outlined in the specific policy under which the original action was taken.

A student who wishes to lodge an appeal based on one of these two conditions should refer to the Student Appeals Policy. **NOTE:** The student must lodge the appeal with the Registrar's Office within five days of being notified of the final decision under this policy.

#### **F. CONFIDENTIALITY**

The College recognizes the confidentiality and privacy rights of everyone involved in a complaint or report of sexual misconduct involving a student and must protect personal information in accordance with the *Freedom of Information and Protection of Privacy Act*.

If the College issues any public communication relating to any report, complaint, or investigation under this policy, it will comply with the *Freedom of Information and Protection of Privacy Act* and will take into consideration the interests of confidentiality of all individuals involved.

#### **G. PROTECTION FROM RETALIATION OR THREATS**

Retaliation for making a complaint or filing a report under this policy is prohibited. Any person who experiences retaliation for making a complaint or filing a report under this policy should report it immediately to the College. Any person who retaliates against or threatens to retaliate against a person for making a complaint or report under this policy will be subject to discipline up to and including expulsion and/or termination from the College.

#### **H. UNSUBSTANTIATED, OR FALSE COMPLAINTS**

A person who has in good faith made a complaint or report under this policy, even if it is not substantiated, will not suffer adverse consequences for making the complaint or report.

Any person who knowingly makes a false complaint or report under this policy will be subject to discipline up to and including expulsion and/or termination from the College.

#### **I. FOR THOSE ACCUSED OF SEXUAL MISCONDUCT**

Support is also available for the student accused. The College recognizes the serious potential impact on an individual of being accused of sexual misconduct and will uphold the right of a person to be presumed innocent until otherwise proven.

#### **DEFINITIONS**

**Actionable complaint:** A complaint of sexual misconduct involving a student about which the survivor requests the College to take action.

**College:** Northern Lights College.

**Complaint of sexual misconduct:** The direct notification by a student survivor to a College employee of an incident of sexual misconduct.

**Consent:** The voluntary agreement by a person of full capacity to engage in sexual activity. It is valid only if given actively, willingly, unimpaired, consciously, and without coercion. Consent can be withdrawn at any point.

**Director:** The College's Director, Student Services.

**Disclosure complaint:** A complaint of sexual misconduct involving a student about which the survivor provides information about their experience but does not necessarily want to move forward with any formal complaint process at the time of disclosure.

**Person:** Any member of the College community including but not limited to students, employees, Board Members, contractors, employees of contractors, volunteers, visitors, and guests.

**Report of sexual misconduct:** The notification of an incident of sexual misconduct involving a student by a person other than the survivor made to a College employee.

**Sexual Misconduct:** Sexual Misconduct is a broad term used to encompass unwanted or unwelcomed conduct of a sexualized or sexual nature. This includes sexualized violence and any sexual act that is committed, threatened or attempted against an individual without their consent, regardless of whether the act is physical or psychological in nature. This includes, without limitation: sexual assault, sexual harassment, sexual exploitation, stalking, indecent exposure, voyeurism, and non-consensual posting of sexually explicit pictures or video.

Reference to an individual applies regardless of gender, sexual orientation or gender identity.

Sexual Misconduct can include, but is not limited to:

- 1) **Indecent exposure:** Exposing one's body to another individual for a sexual purpose without their consent.
- 2) **Sexual assault:** Any contact of a sexual nature carried out without the other person's consent. It includes contact of a sexual nature with a person whom the perpetrating individual knows or reasonably ought to know is mentally or physically incapacitated or incapable of providing consent, including as a result of drug or alcohol use, unconsciousness, a disability, or otherwise.
- 3) **Sexual exploitation:** A form of sexual misconduct where a person in a position of power or trust over another person misusing that power or trust for a sexual purpose. It includes abuse of an individual through the exchange of sex or sexual acts for drugs, food, shelter, protection, money or the basics of life.
- 4) **Sexual harassment:** Unwanted remarks, behaviours or communications of a sexual nature or based on sex, sexual orientation, gender, and gender identity where the person responsible for the harassment knows or ought reasonably to know that it is unwanted. Sexual harassment may occur in person or online (e.g., text messaging) and includes:
  - a) unwanted sexual solicitations, advances, remarks, or leering;
  - b) unwanted suggestive touching, comments or gestures, including jokes, songs and chants; and
  - c) the inappropriate display of sexually suggestive materials including pictures, posters, objects, or graffiti in a place where it is reasonable to expect that they may interfere with another person's dignity.

5) **Stalking:** A form of criminal harassment that includes behaviour occurring on more than one occasion that instills fear in a person or threatens a person's safety or mental health. Stalking is sexual misconduct where it is carried out for any sexual purpose or relates to the person's sexuality, gender, or sexual orientation. Stalking can include, whether in person or online:

- a) threats of harm to a person or to friends or family members of that person;
- b) non-consensual communications;
- c) sending unsolicited and unwanted gifts; and
- d) surveillance.

6) **Voyeurism:** Recording or observing a person without their consent in circumstances where there is a reasonable expectation of privacy where:

- a) that person is in a place in which they can reasonably expect to be sexually exposed or to be engaged in sexual activity; or
- b) the observation or recording is done for a sexual purpose. **Student:** A person who is enrolled at the College or who was enrolled at the College at the time the alleged sexual misconduct occurred.

**Student:** A person who is enrolled at the College or who was enrolled at the College at the time the alleged sexual misconduct occurred.

**Survivor:** A person who alleges that they have been the target of sexual violence or misconduct.

## STAKEHOLDERS

Students  
Administration  
Support Staff  
Faculty  
Education Council

## RELATED POLICIES AND REFERENCES

A-5.04: Student Non-Academic Code of Conduct  
A-5.15: Student Discrimination, Bullying and Harassment Prevention  
A-5.17: Video Surveillance  
E-2.10: Student Appeals  
E-4.05: Student Rights and Responsibilities  
H-1.11: Respectful Workplace

**History**

<b>Created/Revised/Reviewed</b>	<b>Date</b>	<b>Author</b>	<b>Approved By</b>
Created	May 2017	Director of Student Services	College Policy Committee
Revised/Reviewed	May 29, 2020	Acting Director Student Services	College Policy Committee

**Next Scheduled Review Date**

April 2023