

SEXUAL VIOLENCE PROCEDURE - LEARNERS

Parent Policy

Sexual Violence Policy #500-1-19

Purpose

This document puts into practice the Sexual Violence Policy as it relates to the procedure for response to sexual violence. It ensures that those who experience sexual violence are supported, that reports are presumed to be made in good faith, that the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual violence accountable.

Scope

This procedure applies to all disclosures and/or reports of sexual violence made against a Bow Valley College learner which have a real and substantial link to Bow Valley College, its activities, its community, or its functions, whether or not the conduct occurred on Bow Valley College property.

Compliance

Employees, contractors and learners are responsible for knowing, understanding, and complying with Bow Valley College policies, procedures, and any other attached documentation that relates to their position, employment or enrolment at the College.

Procedures

1. Education and Prevention

- 1.1. The College will support ongoing education and awareness initiatives, through Learner Success Services, to make the issue of sexual violence visible and to contribute to the creation of a campus atmosphere in which sexual violence is not tolerated.
- 1.2. Education initiatives will reflect the diversity of the campus community and will engage various College stakeholders, including learners, who have the potential to champion cultural change.
- 1.3. The College will engage in first responder training activities to increase knowledge and skills in responding to disclosures of sexual violence.

2. Disclosure

- 2.1. Any member of the College community may disclose a sexual violence experience or concern to any other member of the College community with whom they feel comfortable.
- 2.2. Bow Valley College asserts that those disclosing have the right to:
 - 2.2.1. Be presumed to be making the disclosure in good faith,
 - 2.2.2. Be treated with dignity and respect,
 - 2.2.3. Be informed about on and off-campus services and resources,
 - 2.2.4. Decide whether or not to access available services and to choose those services they feel will be most beneficial,
 - 2.2.5. Decide whether or not to report through procedures outlined within this document and/or local police,
 - 2.2.6. Have an on-campus investigation with the institution's full cooperation,
 - 2.2.7. Have a safety plan, and
 - 2.2.8. Seek reasonable and necessary accommodation to minimize or prevent further contact with the alleged perpetrator(s).
- 2.3. College employees and learners who have received a disclosure of sexual violence will provide support and provide information about support options. This may include directing the person who made the disclosure to Learner Success Services.

- 2.4. Learner Success Services will be prepared to provide additional supports and assistance. Counsellors in Learner Success Services are designated as advocates to support learners in navigating and understanding on and off-campus options, processes and resources. They are also able to facilitate the development of safety plans.

3. Reporting

- 3.1. Any member of the College community may file a complaint of sexual violence.
- 3.2. Members of the College community should immediately report sexual violence incidents they witness or have knowledge of, or have reason to believe have occurred or may occur. Members who have experienced sexual violence are encouraged to come forward to report as soon as they are able to do so.
- 3.3. Formal sexual violence reports from Bow Valley College learners will be directed through the office of Learner Success Services. Formal reports from Bow Valley College employees will be directed through the office of Human Resources. In the event that a matter involves a learner and an employee, Human Resources and Learner Success Services will consult and determine the appropriate jurisdiction and procedure.
- 3.4. 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.

4. Confidentiality

- 4.1. Reports/documentation will be kept confidential to the degree permitted by law and in accordance with Bow Valley College policies.
- 4.2. Notwithstanding Section 5.7 of this Procedure, information regarding allegations of sexual violence will be kept confidential and shared only with those deemed necessary to complete any College investigation and response.
- 4.3. In certain instances, where the College becomes aware of an allegation of sexual violence by a member of the College community against another member of the College community, the College may have an obligation to take steps to ensure that the matter is dealt with in order to comply with legal obligations and/or policies to investigate such allegations. In such cases, certain College administrators will be informed, on a need to know and confidential basis, about the reported incident, but not necessarily of the identities of the person(s) involved.
- 4.4. The confidentiality of all persons involved in a report of sexual violence must be strictly observed, and the College must make all reasonable efforts to respect the confidentiality of all persons, including the complainant, respondent, and witnesses.
- 4.5. In circumstances where there is imminent risk of harm to self or others, information will be shared with relevant persons/services only as necessary to prevent harm from occurring and the name of the complainant will not be released to the public.

5. Investigation

- 5.1. All reported incidents of sexual violence will be investigated to the best of the College's ability and in a manner that ensures due process, in consideration of the wishes of the Complainant and minimizes, where reasonable and possible without restricting fairness of the process to the Respondent, the retelling of details by the complainant to reduce additional trauma.
- 5.2. Reports of sexual violence will be presumed to be made in good faith.
- 5.3. On-campus investigation procedures will be made available in the case of sexual violence, even when the individual chooses not to make a report to the police.
- 5.4. To maintain procedural fairness and natural justice, no sanction and/or disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this policy. Accused individuals will be given reasonable notice, with full detail of the allegations and provided with an opportunity to answer to the allegations made against them.

- 5.5. The College may determine that there is to be no contact between a Complainant and a Respondent, and/or that the Respondent may be suspended from classes pending the conclusion of an investigation.
- 5.6. A learner who has been named in a formal sexual violence or sexual assault complaint who withdraws from studies will continue to be subject to the process of investigation and decision, including the determination and communication of applicable sanctions.
- 5.7. Where criminal and/or civil proceedings are commenced in respect to a complaint, the College will cooperate with law enforcement, but reserves the right to conduct its own independent investigation and make its own findings in accordance with College policy and procedure.

6. Response

- 6.1. Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual violence from occurring.
- 6.2. Where the College becomes aware of incidents of sexual violence by or against a learner, which occur on or off College property and that pose a risk to the safety of members of the College community, the College shall take all reasonable steps to ensure the safety of the College community.
- 6.3. Learners who have experienced sexual violence will be assisted through provision of detailed information and support, including provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation;
 - 6.3.1. Bow Valley College recognizes that sexual violence can occur between individuals regardless of sexual orientation, gender, and gender identity or relationship status as articulated in the *Alberta Human Rights Act* and those individuals who have experienced sexual violence may experience emotional, academic or other difficulties.
- 6.4. Reports are presumed to be made in good faith and individuals' rights to dignity and respect will be protected throughout the process of disclosure, investigation and institutional response.
- 6.5. Individuals who disclose sexual violence will be treated with compassion recognizing that wherever possible, they will have the power to make choices in how they would like to proceed with their disclosure or report.
- 6.6. Reports of sexual violence on the part of a learner that fall within the parameters of other Bow Valley College policies shall also be referred to the Responsible Officers of the College as designated by these policies and may be dealt with in accordance with these policies. If a learner is found to be in violation of other Bow Valley College policies or applicable legislation, the learner may be sanctioned by any or all policies or legislation.
- 6.7. It is contrary to this policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individuals for reporting and/or participating and/or cooperating in an investigation regarding sexual violence or sexual assault. Such conduct may be subject to sanctions and/or discipline in accordance with appropriate College policy.
- 6.8. Allegations of sexual violence and/or sexual assault that are determined to be malicious in nature, to purposely annoy, embarrass or harm the respondent, are considered frivolous, vexatious, or in bad faith may result in sanctions and/or discipline against the complainant in accordance with appropriate College policy.
- 6.9. Where allegations of sexual violence are supported by evidence gathered during investigation, sanctions and discipline may be applied as outlined within applicable College policy.

7. Documentation

- 7.1. All reports of sexual violence, supporting documentation and written communications will be submitted to Learner Success Services to be reviewed and maintained in a secure system separate from the Permanent Academic Record.
- 7.2. While detailed documentation and/or reports will be maintained separately, the Permanent Academic Record of the Respondent will have a notation only if the investigation of a complaint results in a finding that the Respondent has committed a breach of the Sexual Violence Policy.

7.3. Learners who have been suspended, withdrawn, or denied admission for disciplinary reasons may have this documented on their academic records in accordance with College policy.

8. Communication

8.1. Formal communications of decisions/sanctions to complainant(s) and respondent(s) will be monitored by the Responsible Officer to review clarity, consistency and adherence to Policy.

8.2. When a learner is suspended or withdrawn from studies for violation of the Sexual Violence Policy, this information, including the specific duration and any conditions for the learner's return, shall be formally communicated in writing to:

- the learner,
- the Director, Learner Success Services to be kept as part of the Learner Conduct record,
- the relevant Academic Dean,
- the Registrar for relevant annotation on the Permanent Academic Record in accordance with applicable policy,
- College security, only if the sanction involves restricting and/or banning from the College campus
- Other College personnel as required.

8.3. Formal communication to learners that outline a decision/sanction must include a statement indicating that decisions may be appealed through the Learner Appeal Policy and must be accompanied by a printed copy of that policy.

9. Appeals

9.1. Learners may appeal decisions related to the Sexual Assault and Sexual Violence Policy through the Learner Appeal Policy.

Definitions

Bystander: An individual who observes an incident of sexual violence taking place.

Coercion: Within the context of sexual violence, coercion is an unreasonable and persistent pressure for sexual activity. Coercion can be through emotional manipulation, blackmail, threats to family, pets or friends, or the promise of rewards or special treatment, to persuade someone to do something that they would otherwise not, such as being sexual or performing sexual acts.

Complainant: The person who brings forward information that a violation of a policy may have occurred. Within the context of sexual violence, it is the individual who experienced the violation.

Consent: Consent is the voluntary agreement to engage in the sexual activity in question. It is an active, direct, voluntary, unimpaired and conscious choice and agreement between individuals at the age of consent to engage in physical contact or sexual activity.

Disclosure: When an individual shares information about a personal experience of sexual violence to someone who did not previously know.

First Responder: The first person who is told about an incident of sexual violence. Initial responses to disclosures have a lasting effect on a victim/survivor's willingness to continue to seek help and ability to heal.

Formal Report: A statement to the institution by a complainant seeking recourse pursuant to the violation of policy.

Learner: A person who is currently registered as a learner at the College whether or not for credit. For the purposes of this document, "learner" shall be used synonymously for applicants and learners unless specifically noted otherwise.

Learner conduct record: Learner Code of Conduct reports and/or other documentation, emails, etc. outlining violations of the Code of Conduct Policy that are held securely by the Responsible Officer, separate from the permanent academic record. Only in cases where the sanction involved withdrawal/termination and/or campus banning may the two records be joined. In all other cases, academic and disciplinary records are held separately.

Permanent academic record: The perpetual record of a Learner's academic program and performance at the College. Such records are the source of transcripts generated at a learner's request.

Respondent: The person alleged to have violated the Sexual Violence Policy.

Safety: The state of being reasonably certain that one will not be emotionally, physically, or mentally hurt by other persons or situations.

Sanctions: The penalties that act to ensure compliance or conformity with the Code of Conduct Policy.

Sexual assault: Sexual assault is nonconsensual sexual actions done by an individual(s) to another. It includes any unwanted sexual acts and can involve a range of behaviours from unwanted touching to penetration through the use of force, threats, control of another person, that makes someone feel fearful, distressed, or threatened or is carried out in a way that an individual is not able to freely consent. Sexual assault is a criminal offense under the Criminal Code of Canada.

Sexual violence: Sexual violence is any violence, physical or psychological, carried out without consent through a sexual means or by targeting sexuality. This includes, but is not limited to sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, degrading sexual imagery, distribution of sexual images or video of a community member without their consent.

Stalking: Unwanted and persistent behavior pursuing contact and/or harassing another in person or online.

Suspension: An absence from a class or program for a set period of time that is ordered by a Dean or Director.

Withdrawal: The formal de-registration of a learner from a College course or program.

DATA SHEET**Responsible Officer**

Director, Learner Success Services

Relevant Dates

Approved	December 9, 2016
Effective	January 2017
Next Review	December 2019
Modification History	December 9, 2016 February 16, 2017 Amended: Administration change from (200) Human Resources category to (500) Learners

Related Policy

Sexual Violence Policy #500-1-19

Associated Policies, Procedures, and Guidelines

Learner Code of Conduct Policy #500-1-1

Learner Code of Conduct Procedure #500-1-1

Employee Code of Conduct Policy #200-1-1

Employee Code of Conduct Procedure #200-1-1

Learner Appeals #500-1-12

Learner Records & Information - Collection, Access & Waivers #500-1-16

Sexual Violence Provincial Framework

Related Legislation

Including but not limited to:

*Alberta Human Rights Act**Criminal Code of Canada**Occupational Health and Safety Act**Freedom of Information and Privacy Protection Act*