



Pacific Link College

Sexual Misconduct Policy

Name of Policy

June 22, 2021

Implementation Date

Program Head, Campus Coordinator

Position(s) Responsible for Administering this Policy

Date of Last Revision

Policy:

This policy confirms Pacific Link College's position on sexual violence, and the protocols to be followed in the case of a disclosure or complaint involving a student. PLC reserves the right to take necessary and appropriate action to protect the safety and welfare of the campus community and the learning environment. This may include taking necessary and appropriate action in cases where a student is accused of serious conduct, and there is a clear nexus to the campus community regardless of where the conduct occurred or is alleged to have occurred.

Procedure:

For any complaint about a student, faculty or staff, the complaint must be submitted in person or via email to the Campus Coordinator. If the issue involves the Campus Coordinator, it can be submitted to the Program Head.

Complaints will be investigated and a decision will be communicated with the person that made said complaint.

All students and staff of the college are entitled to study and work in an environment that is free from sexual misconduct. The college considers sexual misconduct to be a serious violation of an individual's fundamental rights. members of the college community who engage in sexual misconduct may be subject to a range of disciplinary measures, up to and including suspension, dismissal or expulsion from the college. Members of the college community who experience and report sexual misconduct will be provided with support by the college and assistance with accessing additional support services both on and off the campus.

However, knowing what constitutes sexual misconduct is often difficult. Freedom from misconduct and harassment does not mean that you will be protected from exposure to controversial material and ideas, nor does it mean that every encounter you have at the college



will be agreeable. The college is a place of learning in which the free exchange of information, ideas and perspectives are valued and encouraged. The legitimate study of topics of a sexual nature within the college's curriculum is not considered sexual misconduct.

This policy applies to all members of our college community, which includes students, employees, guests and visitors. The policy is intended to address and eliminate sexual misconduct which occurs within the context of the college and activities and which interferes with an individual's employment or studies at the college. Behaviour which occurs separate from any college-related activities and which is unrelated to an individual's employment or studies at the college is not covered by this policy.

This policy is not intended to be used in situations where sexual misconduct is of a violent nature. In the event of violent incidents, law enforcement authorities will be contacted and support will be provided to the victim. The college does reserve the right to conduct an investigation and take appropriate steps in the event of violent situations, if necessary to protect the safety of the college community.

Notwithstanding the existence of this policy, every individual has the right to pursue other courses of action, even when steps are taken under this policy. The college reserves the right to suspend the processing of complaints when alternate routes are being pursued by the complainant.

Definitions

Consent: The voluntary agreement to engage in the sexual activity in question and to continue to engage in the activity. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct, and can be revoked at any time. No consent is obtained where a person is incapable of consenting, for example, by intoxication or where a person is induced to engage in the activity by someone abusing a position of trust, power or authority.

Sexual Misconduct: To constitute Sexual Misconduct, behaviour may be a single serious incident or may be repeated or persistent behaviour. Sexual Misconduct is any form of sexual contact without a person's consent, including the threat of sexual contact without consent. Sexual Misconduct may include one or more of the following:

- Sexual assault
 - Sexual exploitation
 - Sexual harassment
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- Criminal 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
- The threat to commit an act of sexual misconduct

Sexual Harassment: Sexual harassment refers to unwanted communications or actions that are sexual in nature, and are offensive, intimidating or humiliating. It can take many forms including verbal, written or visual. Sexual harassment may include any of or all of the following conditions:

- Conduct or comment of a sexual nature made by a person who knows or ought to reasonably know that such conduct or comment is unwanted or unwelcome
 - Expressed or implied promise or a reward for complying with a request of a sexual nature
 - Actual reprisal or an expressed or implied threat of reprisal or refusal to comply with a request of a sexual nature
 - Actual denial of an opportunity or an expressed or implied threat of denial of opportunity for refusal to comply with such a request
 - The conduct or comment is intended to, or has the effect of, creating an intimidating or hostile environment
 - Differential treatment of a former or current intimate partner where a power relationship exists
 - Examples of sexual harassment include, but are not limited, to the following
 - Remarks or innuendos regarding an individual's appearance, clothing or sexual life
 - Unwelcome questions or sharing a personal information regarding a person's marital status, sexuality, sexual activity, sexual orientation, or gender/transgender issues
 - Persistent, unwelcome sexual flirtations, advances, propositions, invitations or requests
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- Sexually suggestive, obscene or degrading comments or gestures
- Displaying or circulating sexually graphic or derogatory pictures or written materials
- Use of online activities such as email, text messaging or social networking to initiate or participate in any of the above behaviours
- Leering, ogling or sexually oriented gestures
- Inappropriate and unnecessary touching

Sexual Assault: Sexual assault is any form of sexual contact that occurs without any freely given consent. Sexual assault includes any form sexual contact where consent has not been given (i.e. non-consensual touching that is sexual in nature, forced penetration). Sexual assault includes date rape or acquaintance rape, which happens between acquaintances, friends or between people who are dating. There are three levels of sexual assault in the Criminal Code of Canada.

- Level 1: any forced sexual contact without bodily harm
- Level 2: forced sexual contact causing or threatening to cause bodily harm or using a weapon (imitation or real)
- Level 3: forced sexual contact that causes aggravated bodily harm or endangers the life of the victim or others

Criminal Harassment (Stalking): Criminal harassment, which includes stalking, is prohibited by the Criminal Code of Canada. Criminal harassment prohibits deliberate conduct that is psychologically harmful to others.

For stalking to be criminal harassment, here's what's required:

A person does one or more of the following things:

- repeatedly follow you, or anyone you know
 - repeatedly communicate with you, or anyone you know, directly or indirectly
 - repeatedly watch you, or anyone you know, or lurk around your home, workplace, or any other place you happen to be
 - engage in any threatening conduct directed at you or a member of your family
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- the person knows that their conduct is harassing you or they are reckless about whether their conduct is harassing you. Reckless means they know their conduct may harass you, but they don't care
- the person's conduct causes you to reasonably fear for your safety or the safety of someone you know. Your fear has to be reasonable. The person does not have to realize that their conduct is scaring you for it to be criminal harassment.
- A person can be stalking even if they don't physically hurt anyone or damage any property. The law is designed to protect psychological, emotional, and physical safety. Stalking may start with conduct that seems more annoying than dangerous. Often, the conduct is legal and even socially acceptable, if it's just an isolated incident. But when it's repeated, it may scare the victim. Conduct such as following someone, or sending gifts or letters, may become intimidating if done continually and against the person's wishes.

Sexual Exploitation: Sexual exploitation is the sexual abuse of children and youth through the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life, and/or money. Sexual exploitation includes involving children and youth in creating pornography and sexually explicit websites.

Disclosure and Reporting Options

Complainants have the following disclosure and reporting options, available both on and off campus, and may choose any of these options or any combination of the available options.

- **No Report:** the Complainant may wish to disclose sexual violence in order to seek emotional support, medical support, or advocacy, but may not want to report to police or other campus authorities. Subject to certain limited exceptions, this decision should be respected and the complainant should still be offered support services.

- **Report to Police:** the complainant may wish to make a police statement, which would generally be followed by a criminal investigation. An appointed campus employee can accompany the complainant if requested or the college can contact a community-based victim support worker to support and accompany the Complainant.

- **Third Party Report to Police via Community Victim Service Agency:** the complainant may wish to make an anonymous third party report through a community-based victim support worker; reports are sent to police by an intermediary agency and provide detailed information about the incident and the respondent, but do not include the name or contact information of the complainant. A third party report is not in and of itself a police investigation; it is an option



of last resort for the complainant who would not otherwise provide information to the police but who may want to access support and let the police know of a sexual predator in order to protect others.

- Medical Assistance / Forensic Medical Exam: it is advisable for anyone who has experienced a sexual assault to seek medical attention to address possible physical injury, pregnancy and/or sexually transmitted infections. The complainant will be referred to the nearest hospital and to be connected with a sexual assault response worker or advocate who can provide support and can accompany her/him to the hospital. The complainant will be informed of the need to collect any forensic samples while he/she decides whether or not to report the sexual assault to police. Forensic samples can be collected and stored for up to one year while the complainant decides whether or not to speak with the police.

- Formal Complaint to College: the complainant may wish to make a formal report to the college, precipitating the college sexual misconduct process if either the complainant or respondent is a student, staff, visitor or guest to the college. The complaint procedure process is outlined below.

Interim Relief

The college or authorized representative may take whatever interim measures he or she deems necessary to protect the college community, pending the completion of an investigation into a sexual misconduct complaint. Such measures may include, but are not limited to:

- No-contact between the complainant, respondent, witnesses or other parties
- Ordering the complainant, respondent, witnesses or other parties to cease and desist from engaging in a particular type of behaviour
- Restricting access to a specific campus or specific areas of campus
- Suspending one or both of the parties from the college pending investigation
- Reassignment of supervision/assessment duties in cases where the respondent is an instructor or employee

Specific conditions to be included in the interim provisions will be dependent upon the circumstances of each case and the level of risk to the complainant. All parties will be advised that the interim protection provisions, implemented by the college, are not to be confused with a legal protection order obtained through the Criminal Justice System.



Jurisdiction

- The college will deal with allegations of sexual misconduct in a procedurally fair, unbiased and timely manner.
- The college sexual violence and misconduct policy will be triggered if all of following criteria are met:
 - Both of the parties (the complainant and the respondent) are students, employees, guests or visitors
 - The last incident of alleged misconduct occurred within the preceding six (6) months
 - The behaviour occurred in the context of a college related activity (e.g. on college property or at a college sponsored event)
 - The behaviour, if true, would constitute a contravention of the policy by meeting a definition of Sexual Misconduct as stated in the policy
 - For a complaint to be considered under this policy, it must be submitted within six (6) months of the date of the last alleged incident of Sexual Misconduct. The campus manager may consider an extension to file a complaint past the six (6) month limit, if reasonable grounds for such an extension exist in extenuating circumstances.

Confidentiality

- Complaints and reports of bullying, harassment, discrimination and/or sexual misconduct involve confidential and sensitive matters. Confidentiality is required so those who may have experienced bullying, harassment, discrimination and/or sexual misconduct will feel free to come forward, and the reputations and interests of those accused are protected.
 - All individuals involved in a bullying, harassment, discrimination and/or sexual misconduct complaint or report must maintain the confidentiality of any information they receive during the course of the investigation process. Any individual breaching confidentiality may be subject to disciplinary or corrective action.
 - Subject to disclosure which is required by law or is necessary to investigate or resolve a complaint or report, the college will make every effort to keep confidential any information pertaining to the complaint.
 - Allegations of Sexual Misconduct may require the disclosure of sensitive and personal information, which is protected from unauthorized disclosure by applicable privacy legislation. In order to encourage persons who have been subject to sexual misconduct to come forward, and
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to protect the rights and reputations of the complainant and the respondent throughout the investigation process, the college will attempt to ensure that confidentiality is maintained except where disclosure is necessary for the purposes of investigating and resolving the complaint or where required by law.

Confidentiality must, however, be distinguished from anonymity. If a complainant wishes to proceed with a formal Investigation by the college, procedural fairness requires that the respondent be made aware of the nature of the complaint, including the identity of the Complainant.

All parties and witnesses to a complaint will endeavour to maintain confidentiality throughout the formal Investigation procedures. Investigators will stress the confidentiality of the investigation with all persons involved in the process, including the complainant, respondent and witnesses. Individuals involved in the investigation process who are found to have breached confidentiality may be subject to discipline.

The limits to confidentiality will be outlined to the complainant as soon as possible after disclosure. The complainant will be advised that privacy rights are not absolute and the college may be required to take immediate action, such as contacting the police, in relation to a disclosure of sexual misconduct or violence in the following circumstances:

- There are reasonable grounds to believe that others in the college community may be at significant risk or harm based on the information provided
 - An individual is at imminent risk of severe or life threatening self-harm
 - An individual is at imminent risk of harming another person
 - There is a legal requirement to report
 - There is a requirement to comply with a court order for release of information

The college has the authority to make the decision to release information without consent in the above circumstances. If a decision is made to release information without consent, only information relevant to the health or safety concern in question will be released. The complainant will be informed of any decision to release personal information.

Subject to the exceptions listed above, consent from the respondent would be required before this information could be disclosed further by the person receiving the disclosure or report. Provincial privacy laws allow such information to be shared without consent in the following circumstances:



- If there are compelling circumstances that affect anyone's health or safety
- To assist in an investigation or in making a decision to start an investigation
- If the disclosure is for the purposes for which the information was originally collected and the disclosure is necessary for these purposes

In some instances, the college may need to alert the college community to incidents or potential threats by sexual predators. These alerts will be communicated in multiple formats and media to ensure accessibility by all members of the College community. The alerts will not identify the complainant but will include the following information:

- Date and time that the disclosure or report was made
- The College employee to whom the disclosure or report was made
- Date and time that the incident occurred
- Location where the incident occurred
- Information about the incident
- Non-identifying information about the perpetrator (i.e. gender, approximate age, ethnicity, height, weight, hair colour, eye colour, what the perpetrator was wearing, distinguishing marks)

Retaliation

Retaliation of any kind against a student of the college who, in good faith:

- files a complaint or report of bullying and harassment and/or discrimination;
- participates or cooperates in any investigation under this policy; or
- associates with a person who invoked this policy or participates in these procedures

will not be tolerated.

Frivolous Complaints or Reports

Complaints or reports of bullying and harassment and/or discrimination are serious matters. Students of the college who are found to have made frivolous, vexatious, or malicious complaints



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Sexual Misconduct Policy

of bullying and harassment and/or discrimination may be subject to disciplinary or corrective action.
