

SEXUAL VIOLENCE PROCEDURE - LEARNERS

Parent Policy

Sexual Violence Policy #500-1-19

Purpose

This document puts into practice Bow Valley College's Sexual Violence Policy as it relates to proactively raising awareness of and addressing the issue of sexual violence, and reporting and responding to sexual violence as it pertains to learners. The Policy and Procedure ensure that Bow Valley College learners who experience sexual violence are supported, that disclosures and reports are appropriately handled by College first responders, that College first responders act with a presumption that disclosures and reports are made in good faith, and that the College has an effective process of investigation and response to formal reports that protects the rights of learners and holds learners who have committed an act of sexual violence accountable.

Scope

This Procedure applies to all conduct of Bow Valley College learners regardless of location or modality, which is determined to have a real and substantial link to the College.

Compliance

Members of the College community must know, understand, and comply with College policies, procedures, and associated materials that relate to their position, employment, enrolment or other relationship with the College.

Non-compliance may create risk for the College and will be addressed accordingly through applicable College policies, procedures and contracts.

Procedures

1. General

- 1.1 Members of the College community are encouraged to, and employees and members of the Board of Governors of the College shall, take reasonable action to respond to or to prevent sexual violence from occurring, including but not limited to, contacting the Sexual Violence Officer in any case that involves learners.
- 1.2 Any member of the College community who witnesses or has knowledge of an incident of sexual violence involving a learner and is unsure of steps to take is encouraged to seek advice from the Sexual Violence Officer.
- 1.3 Where the College becomes aware of an incident of sexual violence by or against a learner, that is reasonably perceived to pose risk to the safety of members of the College community, the College shall take all reasonable steps to ensure their safety, subject to the other terms of this Procedure.

- 1.4 Learners who disclose sexual violence to College first responders or the Sexual Violence Officer will be treated with compassion. Where consistent with the College's obligations under its policies, procedures, and other legal obligations, learners who disclose sexual violence will have the power to make choices in how they would like to proceed with their disclosure or formal report.
- 1.5 Learners who have experienced sexual violence will be assisted through the provision of detailed information and support, including provision of, or referral to, counselling and medical care, options regarding reporting and appropriate academic and other accommodations.
- 1.6 Any learner who discloses an experience of sexual violence to another College community member has the right to:
 - 1.6.1 be presumed by College first responders and the Sexual Violence Officer to be making a disclosure or formal report in good faith;
 - 1.6.2 be treated with dignity and respect;
 - 1.6.3 be informed about on and off-campus services and resources;
 - 1.6.4 decide whether or not to access available services and to choose those services they feel will be most beneficial;
 - 1.6.5 decide whether or not to report the experience by means of this Procedure, local law enforcement, or other means;
 - 1.6.6 have an on-campus investigation conducted by the College;
 - 1.6.7 have a reasonable safety plan implemented by the College; and
 - 1.6.8 reasonable accommodation to minimize or prevent further contact with the person who caused harm.

2. Education and Prevention

- 2.1 The College will advance and support education and awareness initiatives, through Learner Success Services, to contribute to the creation of a campus free of sexual violence.
- 2.2 Such education initiatives will reflect the diversity of Bow Valley College learners and will engage various College stakeholders, including learners, who have the potential to champion change.
- 2.3 The College will provide first responder education and training activities to increase knowledge and skills in responding to disclosures of sexual violence to ensure learners who have experienced sexual violence are treated by College first responders in a manner consistent with the Policy objectives.

3. Disclosure

- 3.1 Learners may choose to disclose an experience of sexual violence for the purpose of receiving support or learning about options.
- 3.2 Learners may disclose an experience of sexual violence or related concern to any College community member with whom they feel comfortable.
- 3.3 A learner who makes a disclosure and chooses to not make a formal report with the College should be aware that, pursuant to the Policy and Procedure and as may be required by law, the College may be obligated to take action to protect College community members from sexual violence.
- 3.4 A member of the College community who has received a disclosure of sexual violence should, to the best of their ability, provide support and provide information about support options, which may include directing the person who made the disclosure to the Sexual Violence Officer.
- 3.5 A member of the College community who has reason to believe there is imminent risk of criminal sexual violence by or to a learner must contact local law enforcement, campus security or the Sexual Violence Officer including providing all relevant information.
- 3.6 Employees, contractors and members of the Board of Governors of the College must report any alleged incident of sexual violence by a learner to the Sexual Violence Officer. Alleged incidents of sexual violence towards a learner by a Bow Valley College employee, contractor or member of the Board of Governors, must be reported to Human Resources.

4. Sexual Violence Officer

- 4.1 The Sexual Violence Officer is the designated Learner Success Services employee(s), with relevant training, who:
 - 4.1.1 acts as the primary contact between the College and a learner who has disclosed sexual violence;
 - 4.1.2 provides requested assistance to learners who disclose sexual violence by providing detailed information and support, including referral to counselling and medical care, options regarding reporting, and appropriate academic and other accommodations; and
 - 4.1.3 notwithstanding sections 1.4, 5.1, and 5.5, initiates an investigation and makes reports under other applicable policies if it is alleged that criminal sexual violence has occurred or if it is alleged that a learner has committed one or more acts of sexual violence and that learner reasonably appears to constitute a substantial risk to the safety of the College community.

5. Reporting

- 5.1 Formal reports of sexual violence against a learner will be directed through the office of Learner Success Services. 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.

- 5.2 A complainant may:
 - 5.2.1 file a formal report against a learner with the Sexual Violence Officer who must, subject to sections 1.4 and 4.1.3, initiate an investigation under section 5.6;
 - 5.2.2 contact the Sexual Violence Officer with or without making a disclosure and without filing a formal report; or
 - 5.2.3 neither of the above.
- 5.3 Formal reports may be submitted anonymously, but complainants should be aware that this may limit the ability of the College to investigate, review and resolve the formal report.
- 5.4 Formal reports that do not fall within the parameters of the Policy or that fall within the parameters of other College policies will be, as appropriate refused or referred to the responsible officer of the College as designated by the other relevant policies and will be dealt with in accordance with such policies. The Sexual Violence Officer shall document the rationale for their determination and will advise the complainant of the reasons for their determination.
- 5.5 Filing a formal report does not prohibit or constitute reporting to other authorities, such as law enforcement, and complainants may choose to pursue internal and external reporting options in addition to or in substitution for a formal report.
- 5.6 There are no time limitations on filing a report; however, the College encourages any learner who has been subject to sexual violence to file a formal report as soon as possible after the occurrence of the sexual violence. The College will review all formal reports; however, a delay in filing a formal report may impede the College's ability to conduct an investigation or take appropriate action.
- 5.7 Subject to sections 1.4, 4.1.3 and 5.1, the Sexual Violence Officer, on receipt of a formal report shall initiate an investigation by referring the formal report to the Learner Success Services designate under the Learner Code of Conduct Procedure and such formal report shall be handled as a "Formal Report" under section 4 and 5 of the Learner Code of Conduct Procedure with appropriate modifications including:
 - 5.7.1 The Learner Success Services designate has no discretion to direct an informal response under section 4.1.5, unless the complainant requests that the allegation be addressed with an informal response;
 - 5.7.2 If an incident of sexual violence is established, when determining the appropriate response under section 4.4 and 4.5 thereof, due consideration shall be given to the purposes and objectives of the Sexual Violence Policy;
- 5.8 Subject to the limitations expressed above, a complainant has the right to withdraw a formal report at any stage of the process. However, the College may continue to act

on the allegations identified in the formal report where necessary to comply with its obligations under its policies and/or its legal obligations.

- 5.9 Upon receipt of a formal report, the designate who is assigned to address the formal report, will act promptly and work with any parties deemed necessary to do any or all of the following:
 - 5.9.1 provide directly or refer to the appropriate individual for provision of information about accommodations and interim measures that may be available in accordance with the Learner Code of Conduct Policy and Procedure, collective agreements and human resources policies and procedures;
 - 5.9.2 conduct a risk assessment and take any immediate action necessary to ensure the safety of the College community or the broader community; and
 - 5.9.3 determine the appropriate responsible officer and provide necessary documentation to that responsible officer or designate.

6. Multiple Proceedings

- 6.1 Where criminal or civil proceedings are commenced in respect of sexual violence which is the subject of a formal report, the College reserves the right to conduct its own independent investigation into such formal report and make its own findings in accordance with College policy and procedure.
- 6.2 Where there is an ongoing criminal investigation with respect of sexual violence which is the subject of a formal report, the College will cooperate with law enforcement authorities in conducting its investigations to the extent permitted by law but need not suspend or cease its internal investigation pending the criminal investigation and prosecution process.

7. Confidentiality

- 7.1 Subject to the terms of this Procedure, College personnel involved in a disclosure, formal report or investigation must maintain confidentiality of information as required by law and College policy.
- 7.2 Where the College becomes aware of an allegation of sexual violence, the College may have legal and policy obligations independent of the Policy or Procedure to take steps. 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.
- 7.3 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.
- 7.4 Confidentiality cannot be assured in the following circumstances:
 - 7.4.1 an individual is at imminent risk of self-harm;

- 7.4.2 an individual is at imminent risk of harming another;
- 7.4.3 to uphold the principles of procedural fairness; or
- 7.4.4 reporting or action is required by law, by College policies or by an external body with appropriate authority.

Definitions

Board of Governors: Members of the governing body of the College who have been appointed by an Order in Council of the Province of Alberta or by Ministerial Order by the Minister responsible for Post-Secondary Education, in accordance with the Alberta Post-Secondary Learning Act.

Coercion: Within the context of sexual violence, an unreasonable and persistent pressure for sexual activity. Coercion can be through emotional manipulation, blackmail or threats to individuals, their 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.

College Community: all learners, employees, elders, independent contractors, suppliers, volunteers, visitors and members of the Board of Governors of the College while they are either on or using College property, participating in College programs and activities or involved in the business or affairs of the College, on or off College premises.

College First Responder: A College employee who is trained in sexual violence response, who is told about an incident of sexual violence.

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

Consent: Voluntary and mutual agreement to engage in a sexual activity between individuals at the age of consent which must be active, direct, voluntary, unimpaired, ongoing, conscious, and free of coercion.

Criminal Sexual Violence: Any form of sexual violence prohibited by the Criminal Code of Canada.

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

Formal Report: A written or verbal statement regarding an allegation of a breach of the Sexual Violence Policy or associated Procedure, submitted to Learner Success Services, for learners, or Human Resources, for employees, by a complainant seeking recourse in accordance with this Policy and the associated Procedure.

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 otherwise noted.

Real and substantial link: the inferred connection a reasonable person would make between learner conduct and the College.

Respondent: The person alleged to have breached the Sexual Violence Policy or Procedure.

Safety: Circumstances in which all persons are free from violence and otherwise not likely to suffer physical, emotional or psychological trauma or injury.

Sexual Assault: Non-consensual sexual actions done by one or more individuals 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 Harassment: repeated course of conduct of a sexual nature, or a sufficiently serious single incident of a sexual nature, by a person who knows or should know that the conduct or incident is unwanted or likely to detrimentally affect the person towards whom it is directed or likely to detrimentally affect the person's work, study or living environment. The following conduct may constitute sexual harassment:

- remarks, jokes, innuendoes or taunting;
- displaying pornography or other sexually explicit material;
- requests for dates;
- sexual advances; or
- leering or other sexually oriented gestures.

Sexual Violence: Any violence, physical or psychological, that is carried out, threatened or attempted by or against a member of the College Community without consent through a sexual means or by targeting sexuality. This includes, but is not limited to sexual assault, sexual harassment, stalking, indecent exposure, and voyeurism, degrading sexual imagery and distribution or recording of sexual images or videos of a sexual nature of a member of the College Community without their consent.

Stalking: Repeated contact or communication directed at another person that causes the person reasonable fear or concern for that person's safety or the safety of others known to them. Safety includes physical, emotional and psychological safety. Stalking can occur physically (such as watching and monitoring, pursuing or following, making threatening or obscene gestures, sending unsolicited gifts), electronically (for example, continuously commenting or contacting via social media, surveillance, letters, text messages, emails or phone calls), or through a third party.

DATA SHEET

Responsible Officer

Director responsible for student support services

Relevant Dates

Approved	December 9, 2016
Effective	January 2017
Next Review	December 2022
Modification History	December 9, 2016 February 16, 2017 Amended: Administration change from (200) Human Resources category to (500) Learners November 24, 2020 Update approved at Executive

Related Policy

Sexual Violence Policy #500-1-19

Associated Policies, Procedures, and Guidelines

- Learner Accommodation Policy #500-1-4
- Learner Code of Conduct Policy #500-1-1
- Learner Code of Conduct Procedure #500-1-1
- Code of Conduct Policy of Bow Valley College #200-1-13
- Code of Conduct Protected Disclosure Procedure #200-1-13
- Respectful Workplace Policy #200-1-11
- Respectful Workplace Procedure #200-1-11
- Learner Appeals Policy #500-1-12
- Learner Records & Information - Collection, Access & Waivers #500-1-16

Related Legislation

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