



Policy #:	2-07
Name of Institution:	Valemount College
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Name of Policy:	Sexual Violence and Misconduct
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SEXUAL VIOLENCE AND MISCONDUCT

POLICY STATEMENT

Valemount College is committed to providing all members of the college community with a safe and secure environment free from all forms of sexual violence and misconduct. The college will ensure that complainants are supported when addressing any allegations and/or violations of this policy.

PURPOSE STATEMENT

The purpose of this policy is to outline how the college will create an environment free from sexual violence and misconduct by:

- offering education and training programs to the college community that are pertinent to this policy, including programs aimed at awareness and prevention of sexual violence and misconduct;
- creating a safe environment in which reporting by complainants is encouraged and facilitated;
- providing supports to complainants; and
- responding to and addressing complaints of sexual violence and/or misconduct.

SCOPE AND APPLICATION

1. This policy applies to all members of the college community.
2. Events that occur on or off campus, or outside of normal college business hours, and/or through social media and other digital mediums may be investigated if the parties are currently connected to each other through the college and if the alleged misconduct creates an environment for the participants that is not safe, secure and free from all forms of sexual violence and misconduct.
3. This policy will defer to any existing legislation under the Canadian Charter of Rights and Freedoms, BC Human Rights Code, BC Freedom of Information and Protection of Privacy Act, Criminal Code of Canada, BC's Workers Compensation Act, and the BC Sexual Violence and Misconduct Policy Act, as well as any other applicable legislation.

PRINCIPLES

1. The College will not tolerate sexual violence and/or misconduct, nor the condoning of Rape Culture.
2. The College will promote a culture that supports and facilitates the reporting of violations under this policy, while understanding and acknowledging that those who have experienced sexual violence and/or misconduct may be traumatized by their experience.
3. The College will investigate matters from a complainant-centred approach, providing support as necessary, including support should they wish to bring their complaint forward to law enforcement.
4. To assure administrative and procedural fairness, the Principles of Natural Justice will be the foundation for all investigations, decisions and outcomes under this policy.
5. The College acknowledges that individuals experiencing sexual violence and/or misconduct will have different needs which may be based on factors such as ancestry, race, ethnicity, language, faith, age, socioeconomic status, gender identity, sexual orientation and previous trauma.
6. The College has the obligation to pursue an investigation and/or bring the matter to the attention of law enforcement should there be deemed a significant risk to the health or safety of one or more persons in the college community. The BC Freedom of Information and Protection of Privacy Act states disclosure of personal information is allowed if "compelling circumstances exist that affect anyone's health or safety". This includes threats of violence.

7. Except in cases where the College has an obligation to investigate, as described in #7 above, the complainant will have the right to determine if they wish to have their complaint investigated by the College. The complainant may change their mind and decide to either initiate or withdraw their actionable complaint.
8. Complainants are encouraged, but not required, to make a complaint as soon as possible after an incident of sexual violence and/or misconduct and normally no later than six (6) months after the incident, unless there are extenuating circumstances preventing them from doing so.
9. The College will promote a Culture of Consent.
10. The College will act on the premise that all complaints are made in good faith. If it is determined during the course of the investigation, based on evidence, that a complaint is in bad faith or vexatious, it may result in remedial or disciplinary action for the complainant. Inconclusive findings, based on evidence or determinations that conduct did not breach this policy, will not in itself constitute bad faith or vexatious complaints.

GUIDELINES

Expectations and Responsibilities

1. All members of the college community have the responsibility to create a safe and inclusive environment free from sexual violence and misconduct.
2. While this policy applies to all members of the college community, responses to violations and reparations of harm must comply with applicable Valemount College policies and current legislation.
3. Violations will be addressed through the processes outlined in APPENDIX E - SEXUAL VIOLENCE AND MISCONDUCT COMPLAINT PROCEDURES with the intention of providing a safe, compassionate and supportive environment for the complainant and an opportunity for education and reparation of harm as appropriate.

Education and Communication

The college is committed to providing information and education that supports a culture free from sexual violence and misconduct, with the intent of:

- preventing incidents of sexual violence and misconduct within the college community;
- ensuring that all complainants know where and how to report an incident;
- ensuring that bystanders know how to provide support;
- creating education for respondents and opportunities for reparation of harm if appropriate;
- changing attitudes that perpetuate sexual violence and/or misconduct and Rape Culture by fostering change at a number of levels including social norms, organizational practices, and behaviours of bystanders and potential perpetrators.

Disclosure and Support

The college supports the rights of complainants with choosing to make an actionable or non-actionable complaint upon disclosing an event of sexual violence and/or misconduct. Support will be available regardless of which course of action the complainant chooses, and steps will then be taken in accordance with the procedures described in *Appendix E - Sexual Violence and Misconduct Complaint Procedures*. When there is a risk of significant harm to the health and safety of one or more persons, the college has the obligation to contact law enforcement and to take necessary precautions. College staff may seek support from local social services experts in determining the level of risk.

Appeals Regarding Process

Individuals who wish to appeal a decision made within the scope of this policy shall follow procedural guidelines and timelines as outlined in the appropriate policies.

Student appeals arising from processes administered as a result of violating this policy will be addressed directly under the Appeals Policy #2-10.

REFERENCES

APPENDIX E - SEXUAL VIOLENCE AND MISCONDUCT COMPLAINT PROCEDURES BC
Bill 23 – 2016 Sexual Violence and Misconduct Policy Act
BC Freedom of Information and Protection of Privacy Act
BC Human Rights Code
BC Workers Compensation Act, WorkSafeBC, 2013

Related External Policies, Documents and Websites:

Ending Violence Association of BC

www.femifesto.ca

West Coast Legal Education and Action Fund: www.westcoastleaf.org

Acknowledgements:

Valemount College acknowledges and expresses gratitude for the use of some of the language within this policy from the following institutions and organizations:

- Ministry of Advanced Education: Preventing and Responding to Sexual Misconduct at British Columbia Post-Secondary Institutions: A Guide for Developing Policies and Actions
- Femifesto: Use the Right Words: Media Reporting on Sexual Violence in Canada
- University of British Columbia: UBC Alma Mater Society, Sexual Assault Support Centre
- Langara College
- Thompsons Rivers University

APPENDIX E SEXUAL VIOLENCE AND MISCONDUCT COMPLAINT PROCEDURES

The purpose of these procedures is to support Valemount College Policy #2-07 Sexual Violence and Misconduct. It is the responsibility and expectation of all members of the college community to act in accordance with good citizenship, institutional policies, respect towards each other and to be in compliance with applicable legislation. In the event that expected behaviours are not met and violations of this policy occur, appropriate supports and procedures will be implemented.

In order to protect complainants and respondents in the immediate aftermath of a disclosure of sexual violence and/or misconduct, interim measures that increase the safety of the complainant, the respondent and the broader College community may be implemented, pending the conclusion of investigative processes. Such interim measures may include the following: no-contact between the parties, leave provisions, adjustment of class or work schedules, temporary ban and/or restricted access to all or some college facilities.

Further measures to protect the complainant and the respondent may be implemented pending the conclusion of the investigation and if necessary, the Student Dispute Resolutions Committee may be notified to facilitate campus safety measures. Anyone, including the respondent or witnesses, who discloses or receives a disclosure about a sexual violence and/or misconduct issue will be offered and provided support as appropriate and reasonable in the circumstances.

1. SEEKING SUPPORT FOLLOWING SEXUAL VIOLENCE AND/OR MISCONDUCT

Complainants may choose to disclose only to seek support without necessarily a request for an investigation. If the complainant does not request an investigation, no investigation will occur unless there is a concern of harm to others, or unless the college is otherwise legally required to conduct an investigation into the allegations. The College recognizes that persons experiencing sexual violence and/or misconduct may require urgent, immediate and/or on-going care and support. Access to external and internal resources will be provided as needed. Persons wishing to report to law enforcement may request assistance in doing so from the College through the supports as described above.

2. COMPLAINT OPTIONS

Below are options available for complainants to report sexual violence and/or misconduct against them. All reports will result in support for the complainant and will anonymously be recorded as an incident that is included in the report to the College Director who in turn, will provide a report to the Student Dispute Resolutions Committee. Reports should, where possible, include the following information about an incident:
the type of misconduct as per the definitions described within this policy;

- whether the incident occurred on or off campus;
- whether all participants are members of the College community, and if so;
- whether they are students or employees.

No identifying information is reported. Logged complaints are created by the Executive Assistant. If the Executive Assistant is a participant, the complaint will be reported to and logged by the College Director.

a) Non-Actionable Complaint reported to the college

Complainants may choose to disclose their complaint only to College authorities (Executive Assistant or College Director) or to a member of the College community without requesting action. Although no investigation would take place, unless the College is legally required to conduct one, any member of the community receiving a disclosure is expected to report this disclosure to the Executive Assistant, as is appropriate normally, by the end of the next business day. When there is a risk of significant harm to the health and safety of one or more persons, the College has the obligation to contract law enforcement and to take necessary precautions. The complaint will be logged anonymously as an incident in a report to the College Director, who will provide an annual report to the Board of Directors and may provide the report to the *Student Dispute Resolutions Committee*.

b) Actionable Complaint reported to the college

Complainants may choose to report an actionable complaint to College authorities (Executive Assistant or College Director). Actionable complaints initiate an investigation and may result in sanctions as described in these procedures. The College will normally begin the process by the end of the next business day after having received the complaint. The actionable complaint will be logged anonymously as an incident that is included in an incident report to the College Director, who will provide an annual report to the Board of Directors and may provide the report to the *Student Dispute Resolutions Committee*.

c) Actionable complaint reported to law enforcement and the college

Complainants may choose to report a complaint directly with law enforcement and to College authorities; the College holds the right to conduct or suspend an investigation when actionable complaints are referred to law enforcement and a criminal proceeding has been initiated. The actionable complaint will be logged anonymously as an incident that is included in an incident report to the College Director, who will provide an annual report to the Board of Directors and may provide the report to the *Student Dispute Resolutions Committee*.

d) Non-Actionable, anonymous complaints reported to law enforcement

Complainants may choose to report a complaint anonymously with law enforcement through a third party arrangement or personally. Unless such reports become known to the College, no incident will be logged in the incident report to the College Director.

3. INVESTIGATIVE PROCEDURES, FINDINGS AND SANCTIONS

An individual who has experienced sexual violence and/or misconduct falling within the scope of this policy, or a third party authorized to act on their behalf, may request an actionable complaint that results in the matter being investigated. Only individuals trained in sexual violence investigations will be authorized to conduct an investigation.

Students

When an actionable complaint comes forward, the College Director or their designate will be advised and will authorize an investigation. The findings from the investigation will be provided to the College Director or designate for the determination of sanctions as appropriate.

When an actionable complaint comes forward that involves a College employee and a student, a joint investigation will be conducted under the authority of the College Director and may include a designated member of the Board of Directors as required. Such investigation will be in compliance with applicable College policies, however the process set out may be modified to protect privacy rights. When a student complainant has filed an actionable complaint, and a finding is made regarding the respondent, the following sanctions may occur:

- verbal reprimand;
- behaviour contract;
- restorative justice;
- reporting to law enforcement;
- restricted access to campus;
- recommendation for suspension or termination to the Board of Directors;

Where sanctions have a direct impact to the complainant, the complainant will be consulted with and may be apprised of the sanctions.

Visitors

In the event that the principles and guidelines described within this policy are violated by a visitor, the incident will be referred to the appropriate authority for resolution (e.g. law enforcement, the College Director or their designate). In some instances, the visitor may be immediately required to leave the campus as an interim measure, contracts may be cancelled and/or other steps may be taken to remediate the situation.

Privacy of the complainant and the respondent will be maintained to the extent possible, except in situations where one or more person's safety is at risk or where the College is required by law to disclose information. In such cases the College will disclose confidential or personal information only on an as-needed basis and in compliance with the BC Freedom of Information and Protection of Privacy Act and Personal Information Protection Act.

Media

Media contacts will be directed to the College Director or designated member of the Board of Directors.