

 <div>ST. MARK'S COLLEGE</div> <div>CORPUS CHRISTI COLLEGE</div>	Policy No.:	Approval Date: November 25 th , 2021
		Revision Date:
Approving Body: Board of Directors	Responsible Executive: Human Resources Office	
Title: Sexual Assault and Misconduct Policy		

I. PURPOSE

1.1 Corpus Christi College and St. Mark's College (hereafter, collectively referred to as the "College") have a responsibility to maintain a respectful environment where its members can study, work, and live free from sexual assault and misconduct. This policy articulates the College's duty and commitment to support members of the College's community who are impacted by sexual assault and misconduct, to provide a central site for information regarding the resources and options available to those affected by sexual assault and misconduct, and to provide a process to respond to and to investigate allegations of sexual misconduct.

II. APPLICATION

2.1 This Policy applies to the following individuals connected to the College:

- Students, including students under the age of 19;
- Employees;
- Volunteers;
- Faculty and Sessionals;
- Visiting instructors, and guest speakers;

- Board of Directors; and
- Anyone else contractually obligated to follow this Policy.

(hereafter, collectively referred to as “Members of the College Community”)

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III. DEFINITIONS

3.1 “**Sexual Misconduct**” is any sexual act or act targeting an individual’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against an individual without that individual’s Consent. The following list sets out examples of Sexual Misconduct. The list is intended to help Members of the College Community understand the kinds of acts that will be considered Sexual Misconduct. The list is not exhaustive and other acts can still be considered Sexual Misconduct under this Policy even if they do not appear in the list below. Sexual Misconduct includes, but is not limited to, the following:

- Sexual assault, which is any form of sexual touching or the threat of sexual touching without the individual’s Consent;
- Sexual harassment, which is unwelcome conduct of a sexual nature that detrimentally affects the working, learning, or living environment, or leads to adverse consequences for the one directly subjected to the harassment;
- Stalking, which is engaging in conduct that causes an individual to fear for their physical or psychological safety, such as repeatedly following or communicating through any means with someone, engaging in threatening conduct, or keeping watch over the place where the individual happens to be;
- Indecent exposure, which is exposing one’s body to another individual for a sexual purpose or coercing another individual to remove their clothing in order to expose their body, without their Consent;
- Voyeurism, which is non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing or recording is done for a sexual purpose; and
- The distribution of a sexually explicit photograph or recording of an individual to one or more individuals other than the individual in the photograph or recording without the consent of the individual in the photograph or recording.

3.2 “**Consent**” is the voluntary agreement to the act or acts in question and to continue to engage in the act or acts. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct. For clarity:

- Consent cannot be revoked at any time during the act or acts in question;
- Consenting to one kind of sexual activity does not mean that consent is given for another sexual activity, and consent only applies to each specific instance of sexual activity;
- No consent is obtained where an individual is incapable of consenting. An individual may be incapable of consenting if they are intoxicated, or if they are induced to engage in the activity by fraud, by someone exercising a position of trust, power or authority, or through coercion or the threat of violence; and
- Evidence that an individual was impaired by alcohol or drugs is a relevant consideration for determining whether they consented to the sexual activity in question.

3.3 “**Disclose**” or “**Disclosure**” is the sharing of information with the College regarding any incident of Sexual Misconduct.

3.4 **Report**” or “**Reporting**” is providing a statement of allegations to the Committee (as defined below) about Sexual Misconduct.

3.5 “**Investigation**” is an investigation carried out by the College on the basis of a Report, as set out in the Procedures to this Policy.

3.6 “**Investigator**” is the individual appointed to Investigate a Report under the Procedures to this Policy.

IV. PRINCIPLES

4.1 The College will not tolerate sexual assault or any other Sexual Misconduct.

4.2 The College recognizes that people’s experiences will be affected by factors such as their access to power and privilege, their sex, racialization, age, family status, ability, disability, national or ethnic origin, Indigeneity, immigration status, socio-economic status, class, and language. The College also recognizes that the colleges are a unique environment, in which power imbalances are inherent. These factors, along with an individual’s personal history, impact individual experiences of Sexual Misconduct, the ability to access supports, and choices with regard to recourse. The College will take this into account when carrying out its responsibilities under this Policy.

4.3 The College is committed to providing comprehensive and inclusive Sexual Misconduct education, prevention, and response initiatives.

- 4.4 The College is committed to reducing barriers to Disclosing and Reporting, and to taking a trauma– informed approach when responding to and addressing Disclosures and Reports and conducting Investigations.
- 4.5 The College will provide support services and accommodations to Members of the College Community who Disclose or Report Sexual Misconduct.
- 4.6 The College is committed to respecting the rights of those who Disclose to make their own decisions about accessing support services and accommodations, making a Report, or pursuing external processes such as a criminal or civil action.
- 4.7 The College will provide support to Members of the College Community who have had Reports of Sexual Misconduct made against them.
- 4.8 The College is committed to procedural fairness and will respond to and address Disclosures and Reports, and will conduct Investigations, in a timely manner.

V. SEXUAL VIOLENCE RESPONSE COMMITTEE

- 5.1 The College has established a Sexual Violence Response Committee (the “Committee”). The Committee is appointed by the Human Resources Office and shall be comprised of up to four members.
- 5.2 The Committee acts as a single point of contact and liaison for Members of the College Community who have experienced Sexual Misconduct. This support services that can be provided by the Committee include:
- receiving Disclosures;
 - identifying, accessing, and coordinating appropriate accommodations;
 - providing information about internal and external referrals, including to the Vancouver Rape Relief and Women’s Shelter, Women Against Violence Against Women, the BC Society for Male Survivors of Sexual Abuse, and the Family Centre Services Society;
 - providing information about confidentiality and how confidentiality relates to the information provided through a Disclosure, a Report, or an Investigation;
 - providing information about Reporting, Investigations, and alternative dispute resolution processes;
 - providing information about any other relevant College policies, such as the Respectful Workplace Policy;
 - assisting with the creation of a Report or the submission of a Report to a Reviewer (as defined below);

- acting as a liaison with the Investigator appointed to conduct an Investigation; · acting as a support person during an Investigation;
- receiving allegations regarding acts of retaliation relating to a Disclosure or Report of Sexual Misconduct and assisting with referral of these allegations to the appropriate employment or student disciplinary process; and
- providing information about the differences between the criminal process and the College's investigatory process and providing support in reporting to the police if requested.

VI. DISCLOSURE & REPORTS The decision to Disclose and the decision to Report are separate decisions. An individual may choose to Disclose Sexual Misconduct without making a Report. Consequently, Disclosure does not result in a Report being made, and does not initiate an Investigation or other action by the College.

6.2 Accommodations that may be available to Members of the College Community who have Disclosed, or Reported Sexual Misconduct include:

- class schedule changes;
- academic accommodations;
- temporary work reassignment, location reassignment, or scheduling changes; · emergency funding for students;
- safety planning; and
- the implementation of safety measures.

6.3 Records of any Disclosures made to the Committee will be kept strictly confidential, and access to those records will be limited to the members of the Committee.

6.4 To the greatest extent possible, the College will respect an individual's choice to not make a Report and will keep the Disclosure confidential, except in exceptional circumstances, where required by law or where there is a risk of significant harm to anyone's health or safety, in which case the College may notify the police or child protection authorities.

6.5 Anyone directly subjected to Sexual Misconduct, including an individual who is not a Member of the College Community, can make a Report against a Member of the College Community under this Policy.

6.6 Reports must be submitted to the Committee, who will address them in accordance with the Procedures to this Policy.

- 6.7 Sexual harassment may fall within the scope of both the Respectful Workplace Policy and this Policy. Reports that contain allegations of Sexual Misconduct other than sexual harassment will be addressed under this Policy. Reports that contain allegations of sexual harassment alone will be reviewed by the Committee established under this Policy and the Respectful Workplace Policy who will determine, based on the particular facts of the case and in consultation with the individual making the Report, which policy is better suited to address the allegations.
- 6.8 An individual can both submit a Report to the College and pursue other processes external to the College against the individual alleged to have committed the Sexual Misconduct. These external processes may include reporting to the police or initiating a civil action (including a complaint under the *BC Human Rights Code*).
- 6.9 If an Investigation or alternative resolution process is initiated under the Procedures to this Policy and an external process is also being pursued, the Committee may elect, after consultation with the appropriate parties, to continue with the College process or to suspend the College process as appropriate.
- 6.10 If a member of the Committee, an Investigator, or a College authority empowered to impose discipline has a real or apparent conflict of interest in a particular matter, or there is a reasonable apprehension of bias, then that individual will not continue their involvement in the matter and the College will appoint an appropriate individual to act in that role for the purposes of that matter.
- 6.11 The College is committed to reviewing this Policy at least once every three years, in consultation with students and other Members of the College Community.

VII. INVESTIGATION PROCEDURES

General

- 7.1 The Committee will exercise its authority and discretion under these Procedures in conformity with the principles of procedural fairness in the university and college context.

Reports

- 7.2 Reports must be made in writing and should set out the relevant details with regard to the alleged Sexual Misconduct. Reports should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media communications, should also be included in the Report.

Initial Review

- 7.3 Upon receipt of a Report, the Committee will conduct an initial review to determine if the College has the jurisdiction to investigate. Once this determination is made, the individual

directly subjected to the Sexual Misconduct will be referred to as the Complainant in any subsequent process, and the individual against whom the allegations have been made will be referred to as the Respondent.

7.4 If the Respondent has an employment relationship to the College, the Committee will notify the appropriate College authority who may make any appropriate workplace arrangements required to ensure an effective investigation process.

7.5 If an Investigation is initiated, the Committee will contact the Complainant and the Respondent to advise them that the Report has been referred for an Investigation and provide them with information about the resources available and the investigation process.

Information Gathering

7.6 The Committee will endeavour to make this process as timely, comfortable, and unbiased as possible as it gathers the facts relevant to the situation. The Committee will make best efforts to complete investigations within a 30-day period.

7.7 Investigations are not adversarial processes, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.

7.8 In all Investigations, the Respondent will be fully informed of the allegations made against them and will be given the opportunity to respond.

7.9 The Committee may investigate in any manner they deem appropriate in order to obtain the information required to make the necessary findings of fact. This may include, but is not limited to, the following:

- requesting a written response to the Report from the Respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications;
- meeting with or requesting further information from the Complainant;
- meeting with or requesting further information from the Respondent;
- meeting with or requesting further information from any other individuals who may have information relevant to the Investigation, including any witnesses identified by the Complainant or the Respondent; and
- obtaining any other evidence that may be relevant to the Investigation.

Determination

- 7.10 At the completion of the Investigation, the Committee will prepare a written Investigative Report for the President/Principal in which the Complainant and/or Respondent's positions within the College are most connected (the "Reviewer"). Employees and students at Corpus Christi College will be referred to the President and employees and students at St. Mark's College to the Principal.
- 7.11 The Investigative Report will normally include a summary of the evidence considered, any assessment of credibility that is required to render a determination, and the findings of fact.
- 7.12 The Reviewer will then deliberate and determine whether, on a balance of probabilities, the Sexual Misconduct or other breach of the Policy has occurred. If a breach of this Policy is found, the Reviewer will return to the decision to the Committee to decide on a sanction in relation to the offending conduct.

Resolution

- 7.13 The Committee will meet separately with the Complainant and Respondent to provide the outcome of the investigation.

No Retaliation

- 7.14 Retaliation in any form by any Member of the College Community against someone who reports a potential breach of the Policy, or against someone who assists in an investigation, will be considered a breach of this Policy and will not be tolerated. Individuals who feel that they have been the victim of, or threatened with, retaliation should immediately inform the Committee or other appropriate authority charged with the conduct of an investigation.

VIII. CORRECTIVE ACTION/SANCTIONS/DISCIPLINE

- 8.1 The College will take such educative, corrective, deterrent or disciplinary action which it deems appropriate in relation to breach of the Policy. This may include action against the Complainant if the Committee finds the complaint was fraudulent, vexatious, and/or made in bad faith.

8.2 Examples of corrective action and/or sanctions include, but are not limited to:

- Education: meeting and discussion with the Committee and/or mandatory attendance at an educational seminar or College in-service;
- Ban from some or all of the College premises (short-term, medium or lifetime);
- Removal from a class or classes without refund or compensation;
- Temporary suspension from work, paid or unpaid;
- Termination or removal from a role within the College;
- Removal or suspension from a teaching position;
- Revocation of inducements or benefits such as participating in social events or College supported training or activities;
- Termination of contract or education opportunity with the College.

IX. CONFIDENTIALITY & PRIVACY

9.1 In order to protect the integrity, fairness, and effectiveness of Investigations and to ensure compliance with the *Personal Information Protection Act* (PIPA), all participants in an Investigation must act in accordance with the requirements set out below.

9.2 individuals, including the Complainant and the Respondent, who have obtained information about an identifiable individual (“Personal Information”) through their participation in an Investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:

- any participants in the Investigation from disclosing information about themselves, or information that they have obtained outside the Investigation.
- College representatives from disclosing Investigation-related information as authorized by this Policy;
- Complainants and Respondents from disclosing the information that they have received through the Investigation process.

9.3 The College will not disclose any Personal Information related to an Investigation except to the extent such disclosure is:

- expressly authorized by the affected individual;

- to a College representative, if necessary for the performance of that individual's duties;
- to a Complainant, Respondent, witness, or other participant in the Investigation, if necessary for the conduct of the Investigation;
- authorized by the College and/or its legal advisors for compelling health or safety reasons;
- authorized by the College and/or its legal advisors to correct misleading or inaccurate information if necessary to protect the integrity of the Investigation; or
- authorized or required under law.

9.4 If a breach of the Policy is found, the Respondent will be entitled to review (but not retain) a copy of the Investigative Report.

9.5 Whether or not a breach of the Policy is found, no other party (including the Complainant) will be entitled to a copy of the Investigative Report, save and except for the Committee, the Respectful Workplace Committee, President/Principal's Office, and the Human Resources Office, as appropriate.

9.6 In the event of disclosure of an Investigative Report, PIPA may require the College to remove Personal Information that is irrelevant to the Investigation findings, or that identifies third parties. If there are multiple Complainants or multiple Respondents, they will only be entitled to review the portions of the Investigative Report that are relevant to them.

9.6 Under PIPA, the College is only authorized to disclose disciplinary actions it has taken against the Respondent if the disclosure is authorized for compelling health or safety reasons. If a breach is found, the Respondent will be advised of the sanctions to be imposed. In some, but not all circumstances the Complainant may be entitled to know the sanctions imposed on the subject of the complaint in the case of breach. Otherwise, any corrective actions or sanctions imposed will be kept confidential.