



## Eclipse College Sexual Misconduct Policy

Responsibility	All Staff/ Instructors  Senior Education Administrator Onsite Administrator
Date of latest version	January 2023

**Purpose** Eclipse College strives to prevent sexual misconduct and to respond effectively and in a timely matter when incidents occur.

**Policy Statement** All students, faculty and staff of the College are entitled to study and work in an environment that is free from sexual misconduct. Members of the College community who engage in sexual misconduct may be subject to a range of disciplinary measures including suspension, dismissal or expulsion from the College. The College is committed to respecting the privacy and procedural fairness rights of all individuals in dealing with allegations of sexual misconduct.

**Scope** This policy is intended to address sexual misconduct involving a student, faculty member, contractor or employee of the College that occurs within the context of the College and College-related activities.

**Definitions** “College” means Eclipse College. “Complainant” is the individual making the allegation of sexual misconduct. “Respondent” is the individual accused of engaging in sexual misconduct. “Sexual misconduct” means any form of sexual contact without a person’s consent, including the threat of sexual contact without consent, and may include one or more of the following: • sexual assault • sexual exploitation • sexual 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  
“Complaint” means a disclosure or complaint of sexual misconduct made to someone at the College in order to seek support, where the Complainant does not wish to make a formal report or

to have the College initiate a formal investigative process. "Report is a formal notification of an incident of sexual misconduct to someone at the College accompanied by a request for action. A Report does not have to be made by the Complainant.

## **Policy and Process**

### **Complaints**

1. A Complainant may direct a Complaint to the Vice-President, Operations, or in the absence of the Vice-President, to the Chief Executive Officer.
2. The Complaint should include relevant details concerning the alleged sexual misconduct, including date, time and location of incident, persons involved, and any other relevant information.
3. The Complainant may not wish to report to the police or to proceed with a formal investigation of the Complaint. This decision should be respected and the Complainant will not be required or pressured to submit a Report.
4. The College will provide information regarding available resources and support services to the Complainant on a timely basis. No later than five business days following receipt of the Complaint, the College will contact the Complainant to discuss potential resolution options, and if appropriate, accommodation.

### **Reports**

5. A Complainant may submit a Report to the Vice-President, Operations, or in the absence of the Vice-President, Operations, to the Chief Executive Officer.
6. The Report should be submitted in writing and include relevant details concerning the alleged sexual misconduct, including date, time and location of incident, persons involved, names of potential witnesses, and any other relevant information including any social media communications or supporting evidence. A clear request for action must be included if the Complainant wishes to initiate a formal process for reporting and investigating the alleged sexual misconduct.
7. Upon receipt of a Report, the College will conduct an initial review to determine whether the allegations of sexual misconduct referred to in the Report fall within the scope of this policy.
8. If the College determines that the allegations of sexual misconduct do not fall within the scope of this policy, the College will provide reasons along with its determination to the Complainant no later than seven working days following receipt of the Report. If the Report discloses other kinds of misconduct, the College may seek to act on this under another policy or process.
9. If the College determines that the allegations of sexual misconduct referred to in the Report fall within the scope of this policy, the College will advise the Complainant no later than seven working days following receipt of the Report.
10. Before initiating a formal investigation, the College may consider potential alternative resolutions with the Complainant.

If an alternative resolution is not appropriate, the College will, within five business days of determining that the allegations in the Report fall within the scope of this policy: (a) appoint an internal or external investigator, having regard to the seriousness of the allegations and the parties involved; and (b) determine what interim measures should be put in place pending the

investigation process such as seeking alternate methods of providing necessary course studies, or restricting contact between the Complainant and Respondent.

11. The appointed investigator will: (a) ensure that both the Complainant and the Respondent are aware that a formal investigation has commenced, and that each has a copy of this policy; (b) ensure that both the Complainant and the Respondent are aware of the positions of the other, and of any allegations made against them, and are given a reasonable opportunity to respond; (c) seek to obtain information through documents from and/or interviews with the Complainant, the Respondent, and any other individuals whom the investigator believes may have information relevant to the allegations; and (d) permit the Complainant and the Respondent to each have a support person present during interviews who will act as an observer and will not participate in the proceedings.

12. After completion of the investigation, and within ten working days, the investigator will provide a written investigation report to the College that includes findings of fact and a determination of a positive, inconclusive or no finding of sexual misconduct based on a balance of probabilities. The investigation report may also include recommendations for resolution of the complaint and/or for remedial or disciplinary action.

13. The Chief Executive Officer will review the investigation report and, no later than ten working days from his receipt of the report, will provide the Complainant and Respondent a summary of the findings of the investigator along with his decisions on the findings and appropriate actions in the circumstances.

14. If the Chief Executive Officer finds that sexual misconduct has occurred, immediate disciplinary or corrective action will be taken. This may include: (a) a warning or reprimand; (b) a referral to educational or psychological services; (c) restrictions on ability to access certain premises or facilities; (d) suspension or expulsion from specific classes and/or from the College; (e) disciplinary action up to and including termination of employment ; or (f) any other actions that may be appropriate in the circumstances.

15. If the Chief Executive Officer finds that a Complaint or Report was frivolous, vexatious or vindictive in nature, he may take appropriate disciplinary action against the Complainant. General

16. The Complainant has the right to withdraw a Complaint or Report at any stage. The College may continue to act regarding the Complaint or Report in order to comply with its obligations under this policy or its legal obligations.

17. In all cases, the College will: (a) ensure the safety of the Complainant; (b) as appropriate, provide emergency numbers for law enforcement, medical assistance, mental health services, and other services; and (c) respect the right of the individual to choose the services they consider most appropriate.

18. It is contrary to this policy for the College to retaliate, engage in reprisals or threaten to retaliate in relation to a Complaint or a Report.

19. Any processes undertaken pursuant to this policy will be based on the principles of administrative fairness. All parties involved will be treated with dignity and respect.

20. All information related to a Complaint or Report is confidential and will not be shared without the written consent of the parties, subject to the following exceptions: (a) if an individual is at imminent risk of severe or life-threatening self-harm; (b) if an individual is at imminent risk of harming another; (c) there are reasonable grounds to believe that others in the institutional community may be at significant risk of harm based on the information provided; (d) where

reporting is required by law; or (e) where it is necessary to ensure procedural fairness in an investigation or other response to a Complaint or Report.

**Contact Information**

Senior Education Administrator – Bob Embury - [bob@eclipsehr.ca](mailto:bob@eclipsehr.ca)

Onsite Administrator Chelsea Allan – [chelsea@eclipsehr.ca](mailto:chelsea@eclipsehr.ca) Eclipse College