



Sexual Misconduct Policy

Purpose

Eclipse College (the “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

“**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 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.

Policy and Process

Complaints

1. A Complainant may direct a Complaint to the Vice-President, Risk Management, 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 Vice-President, Risk Management 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, Risk Management, or in the absence of the Vice-President, to the Chief Executive Officer.
6. The Report must 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 Vice-President, Risk Management will arrange for 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 it is determined that the allegations of sexual misconduct do not fall within the scope of this policy, the Vice-President, Risk Management, advise the Complainant of this determination and reasons, no later than seven working days following receipt of the Report. If the Report discloses other kinds of misconduct, the Vice-President, Risk Management, may seek to act on this under another policy or process.

9. If it is determined that the allegations of sexual misconduct referred to in the Report fall within the scope of this policy, the Vice-President, Risk Management will advise the Complainant of this determination no later than seven working days following receipt of the Report.
10. Before initiating a formal investigation, the Vice-President, Risk Management may discuss and consider potential alternative resolutions with the Complainant. If an alternative resolution is not appropriate, the Vice-President, Risk Management will, within five business days of the determination 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 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 Vice-President, Risk Management 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 Vice-President, Risk Management 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 investigator's findings and determinations of the appropriate actions to be taken in the circumstances.
14. If because of the findings of the investigator, it is determined 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 dismissal 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 because of the findings of the investigator, it is determined that a Complaint or Report was frivolous, vexatious or vindictive in nature, appropriate disciplinary action may be taken on behalf of the College 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 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. The Chief Executive Officer may, in the absence of the Vice-President, Risk Management, appoint or designate a third party to carry out some or all of the responsibilities of the Vice-President, Risk Management under this policy as the Chief Executive Officer deems appropriate.
21. 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.

This institution is certified by the Private Training Institutions Regulatory Unit. Certified institutions must comply with regulatory requirements, including the requirement to have a Sexual Misconduct Policy. For more information about PTIRU, go to www.privatetraininginstitutions.gov.bc.ca.