
Sexual Misconduct Policy

September 1, 2021

Name of Policy

Implementation Date

All Members of Brighton College

July 15, 2024

Position(s) Responsible

Date of Last Revision

Sexual misconduct includes 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 photographs or videos 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

Brighton College strives to provide a safe and secure learning environment for all students, staff, and faculty. As such, the College does not tolerate any form of sexual violence or misconduct and commits to follow up on all reported incidents.

General Principles

This policy is guided by the following principles:

- Brighton College seeks to prevent sexual violence and misconduct, and to respond effectively and in a timely manner when incidents do occur.
- Brighton College endeavors to ensure victims/survivors are supported and treated with compassion; have access to safety planning and to academic, work-related, and other accommodations; and have access to on- and off-campus confidential support services.
- Brighton College respects the privacy and procedural fairness rights of victims/survivors and alleged perpetrators.

Scope and Application

The policy is consistent with the requirements set out in the *Sexual Violence and Misconduct Policy Act* for public institutions and with the *Private Training Act* Regulations for private institutions. The policy addresses sexual violence and misconduct involving students and the broader campus community. It is applicable to on-campus and off-campus events and online spaces.

Definitions

As defined by the *Sexual Violence and Misconduct Policy Act*, sexual misconduct is a broad term that can include sexual assault, sexual violence, sexual harassment, stalking, sexual exploitation, indecent exposure, voyeurism, the distribution of a sexually explicit photograph or video of a person without their consent, the attempt to commit an act of sexual misconduct, and the threat to commit an act of sexual misconduct.

Sexual violence refers to a spectrum of non-consensual sexual contact and behaviour. There are many different types of sexual violence, including sexual harassment and sexual assault. Sexual violence can be perpetrated by anyone: an acquaintance, a classmate, a teacher, family member, a colleague, a friend, a dating partner, an intimate partner, or a stranger (Ending Violence Association of BC, *Campus Sexual Violence: Guidelines for a Comprehensive Response*, May 2016).

Below are several definitions of importance:

- **Sexual assault** refers to any form of sexual contact that occurs without consent. Sexual assault includes any form of sexual contact where consent has not been given (e.g., non-consensual touching that is sexual in nature, forced vaginal or anal penetration). Sexual assault can be committed by an intimate partner, someone known to the victim/survivor (sometimes called “acquaintance rape” or “date rape”), or a stranger. (Ending Violence Association of BC, *Campus Sexual Violence: Guidelines for a Comprehensive Response*, May 2016). The Criminal Code of Canada does not specifically define sexual assault; rather, the broader category of assault is defined as the intentional application of force to another person, directly or indirectly, without the consent of that person and includes circumstances where consent has been withdrawn. Canadian courts have interpreted sexual assault to mean an assault committed in sexual circumstances, which violates the integrity of the victim/survivor. There are three distinct classifications or levels of sexual assault outlined in the Criminal Code Level 1: Sexual Assault; Level 2: Sexual Assault with a Weapon, Threats to a Third Party, or Causing Bodily Harm; Level 3: Aggravated Sexual Assault (Ending Violence Association of BC, *Campus Sexual Violence: Guidelines for a Comprehensive Response*, May 2016; Criminal Code of Canada, sections 271-273).
- **Sexual harassment** refers to unwanted communications or actions that are sexual in nature, and are offensive, intimidating, or humiliating. It can take many forms, including verbal, written, or visual. Sexual harassment includes unwanted touching, offensive jokes, sexual requests, and verbal abuse. Sexual harassment is a type of sexual discrimination and falls under the jurisdiction of Human Rights law (Ending Violence Association of BC, *Campus Sexual Violence: Guidelines for a Comprehensive Response*, May 2016).
- **Stalking**, also called criminal harassment, occurs when one person is followed, watched, communicated with, or subjected to any form of behaviour from another person such that they begin to fear for their safety or for the safety of those known to them. Stalking/criminal harassment often involves repeated conduct over a period between the perpetrator and the victim (British Columbia Ministry of Justice, *Help Starts Here. Information on Stalking: Criminal Harassment*, November 2012).
- **Consent** is defined as “an agreement to engage in a sexual activity. It must be fully voluntary, clearly communicated, and ongoing. All sexual activities that are engaged in must be consented to: if there is consent given for a particular sexual activity, this consent does not automatically extend to other sexual activities. Consent can be withdrawn at any time, including during a sexual activity that had previously been consented to” (Ending Violence Association of BC, *Campus Sexual Violence: Guidelines for a Comprehensive Response*, May 2016).
- **Members of the campus community** means students, staff, faculty, administration, board members, contract staff, visitors, and others when on college property.

- **Disclosure/complaint** refers to when the victim/survivor discloses/chooses to tell someone at the post-secondary institution of an incident of sexual misconduct. It does not have to lead to a report unless there is imminent risk of harm to others or is required by law.
- **Report** is a formal notification of an incident of sexual misconduct to someone at the post-secondary institution or the police, accompanied by a request for action. A report can be made by anyone including, but not limited to, the alleged victim/survivor.

Guidelines for Responding to Disclosures/Complaints and Reports of Sexual Misconduct

Brighton College will act in accordance with the principles of procedural fairness in dealing with allegations of sexual misconduct and is therefore committed to:

- Treating Members of the campus community who disclose or report sexual misconduct with compassion, dignity, and respect in an empathetic and non-judgmental manner.
- Taking immediate action by those with authority to act (administration, counselling services, etc.)
- Taking reasonable steps to ensure the safety of the campus community when the College has been made aware of an incident.

Further, Brighton College commits to treating all parties involved with dignity and respect and acknowledges the rights of the alleged perpetrators. The College is dedicated to fair investigative and adjudicative processes. Therefore, the alleged perpetrator will be provided:

- Reasonable notice and full details of the allegations against them.
- The opportunity to respond to the allegations.

While the alleged perpetrator must be provided procedural fairness, the College considers the circumstances and safety of the victim or survivor while making the alleged perpetrator aware of the disclosure, complaint, or report. It considers that intervention could result in further harm, particularly when no police report is filed.

Disclosures/Complaints of Sexual Misconduct

Brighton College recognizes that a *disclosure/complaint* is different than a *report*, and that a person may choose to disclose sexual misconduct *without making a formal report*. In these circumstances, a disclosure/complaint may not result in a report being made and, therefore, may not initiate a formal process. Brighton College will endeavour to provide appropriate support, including accommodations, based on a disclosure/complaint.

Receiving a Disclosure/Complaint of Sexual Misconduct

A person who has experienced sexual misconduct may choose to disclose this information to anyone in the campus community including another student, faculty, or staff member. As sexual misconduct is defined broadly, the approach and response to a disclosure/complaint may vary depending on the situation.

What to Do If You Receive a Disclosure/Complaint

Receiving disclosures of sexual misconduct can be distressing. If an individual receives a disclosure/complaint, the victim/survivor should be provided with information on available resources and support. This may include campus response teams, sexual assault crisis lines, etc. In receiving a disclosure/complaint, the most important thing is to be there for the individual in a supportive capacity. Members of the campus community should have access to basic information on how to provide a compassionate and supportive response. For example:

- Listen without judgment.
- Help identify and/or access available on or off campus services including emergency medical care, if appropriate, and counselling.

- Respect the right of the individual to choose the services they feel are most appropriate and to decide whether to formally make a disclosure/ complaint or report to the institution or police.
- Recognize that disclosing can be traumatic and the ability of an individual to recall events may be limited.
- Respect the choice of the individual about how much they disclose about their experience.
- Make every effort to respect confidentiality and anonymity.

Reports of Sexual Misconduct

Reports of sexual misconduct may be filed by any member of the campus community and are investigated on an individual basis. Accordingly, the investigation process may vary in relation to the nature of the disclosure, complaint, or report (e.g., whether there has also been a report to law enforcement). Individuals who report have the right to withdraw the report, although the College may continue the investigation depending on the circumstances. The College also encourages those who have knowledge of or who have witnessed incidents of sexual misconduct to report immediately.

Reporting Options

An individual who discloses an allegation of sexual misconduct should be made aware that there are a range of reporting options available to them and that they may choose any of the options or any combination of the options, including:

- **Disclosure Only** – a victim may wish to tell someone about the incident to seek support but may not want to make a report to police or campus authorities.
- **Police** – a victim may wish to make a formal report of a sexual assault or other criminal incident of sexual misconduct to police. Victims should be offered the services of the counsellor or a community-based support worker to accompany them and to provide emotional support. An individual who discloses an allegation of sexual misconduct should be made aware that there is a range of reporting options available to them.
- **Third Party Report to Police via Community Victim Service Agency** – the victim may wish to make an anonymous report through a community-based victim support worker; reports are sent to police by an intermediary agency and provide detailed information about the incident and the alleged perpetrator, but do not include the name or contact information of the victim/survivor.
- **Anonymous Report to Post-Secondary Institution via Victim Support Service** – an anonymous report made through a victim support worker would result in reports being sent to campus by an intermediary agency, providing detailed information about the incident and the alleged perpetrator, but would not include the name or contact information of the victim.

It is also important to note that the individual may change their mind. For example, they may initially choose not to make a report but may later opt to make a police report. As noted above, victims of sexual misconduct may choose one or more of the criminal and non-criminal reporting options, depending on the incident that occurred and their own personal circumstances.

Non-Criminal Processes

Brighton College does not have a mandate to conduct a criminal investigation; however, the college does have a responsibility to provide a safe environment for students, faculty and staff. Therefore, the college may have to conduct a fact-finding investigation regardless of whether a particular incident results in a criminal investigation and/or charge.

If an individual wants to make a non-criminal report to the college, a designated official can explain the process. Depending on the individuals involved (students, administrators/staff or faculty), relevant investigative and/or disciplinary processes may already be set out in Student (Non-Academic) Codes of Conduct or workplace policies. Any non-criminal processes undertaken pursuant to the sexual misconduct policy must be fair and based on the principles of fundamental justice, and all parties involved must be treated with dignity and respect. These processes must comply with Human Rights legislation, by-laws and the Charter, where applicable.

Criminal Processes

If a victim is interested in criminal reporting options, law enforcement can provide information relating to filing a report, the investigative process and criminal charges.

- A designated institution official can arrange to have a police officer meet with the victim on campus to discuss the possibility of making a criminal report.
- A designated institution official can also liaise with and accompany the victim/survivor to the local sexual assault centre, police and/or other justice system partners as appropriate.
- Except in circumstances where there is a serious safety risk to others and/or the institution has a legal obligation to act, the victim/ will be the one to determine what, if any, police reporting actions will be pursued.
- If a victim decides to make a criminal report, the designated institution official(s) can accompany the victim/survivor to the police station or have police attend on campus. If criminal charges are laid, a designated institution official(s) can act as a liaison with police, with the consent of the victim, and inform the victim of progress in the criminal case – unless reporting restrictions, such as sealing orders, have been imposed.

Resources and Support Available

The College commits to providing information to the victim on the range of institutional support and services, including academic and non-academic accommodations to ensure their ongoing safety and success. Examples of this might include:

- “No contact” undertakings
- On- or off-campus safety planning
- Class scheduling and other academic accommodations such as extensions on assignments, deferrals of exams and assistance in withdrawing from a course without penalty
- Workplace accommodations
- Restrictions on access to some institution facilities by the alleged perpetrator if the institution determines there to be a safety risk, including removal from classes, or from part or all of the campus
- If the victim or alleged perpetrator is an employee of the institution, reassignment, administrative leave of absence or other interim measures may be taken during an investigation.

In addition, the College will provide information on education, training, awareness and prevention programs and provide a listing of internal and external (community-based) resources available to provide information and support. Many are listed on the Health & Wellness page on the Brighton College website.

Roles and Responsibilities

The Director of Operations and Student Affairs and/or the VP of Operations is responsible for ensuring investigation procedures are followed. All parties to the incident(s) are expected to cooperate with investigators and provide any details of incidents they have experienced or witnessed. If external investigators

are hired, they will conduct investigations and provide a written report with conclusions to the Director of Operations and Student Affairs and/or the VP of Operations.

Follow-up

The victim and alleged perpetrator will be advised of the investigation findings by the Director of Operations and Student Affairs. Following an investigation, the Director of Operations and Student Affairs and/or the VP of Operations will review and revise College procedures to prevent any future bullying and harassment incidents. Appropriate corrective actions will be taken within a reasonable time.

Record-keeping Requirements

Brighton College expects that students and employees will keep written accounts of incidents to submit with any complaints. Brighton College will keep a written record of investigations, including the findings. To submit the written complaint, follow the Dispute Resolution Policy's procedure steps and form.

Policy Review

The Sexual Misconduct Policy Act requires that policies of public post-secondary institutions be reviewed at least once every three years, or as directed by the Minister of Advanced Education. The three-year period begins on the date that Brighton College officially establishes its first sexual misconduct policy. Students must be consulted as part of the review, and the College may also wish to consider consulting the broader campus community.

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