

TITLE: SEXUAL VIOLENCE

POLICY STATEMENT:

Red Deer College (RDC) fosters a community founded on the fundamental dignity and worth of all of its members. The College is committed to promoting and maintaining an educational, working, and living environment that is free from all forms of Sexual Violence.

PURPOSE:

RDC recognizes that a belief in and application of equality (of gender, gender identity, gender expression, and sexual orientation) and a culture of Consent are the best tools to create a campus free from Sexual Violence.

This policy communicates the College's overall responsibility to provide:

- education and awareness,
- behavioral expectations and responsibilities for all members of the College community,
- security and support, and
- procedures and processes to respond to allegations of Sexual Violence.

It also communicates the responsibility of members of the RDC Community to be knowledgeable about this policy so that incidents of Sexual Violence are dealt with immediately, compassionately, fairly, effectively, and following established procedures.

SCOPE:

This policy applies to anyone affected by Sexual Violence where the violence is alleged to have been committed by a member of the RDC Community during any activity or at any location, on or off campus, that could reasonably be associated with the College learning environment and/or workplace. It also covers virtual environments such as any form of electronic or social media.

On campus – incidents of Sexual Violence which take place on College land and premises, either rented or owned, or using College-owned or run property or equipment including, but not limited to, telephones, computers, and computer networks.

Off campus – incidents of Sexual Violence that occur off campus when the incident is part of a RDC course or organized class activity or part of a RDC event or RDC business that has been defined as such.

If the person accused of Sexual Violence has no defined relationship with RDC, for example, a community member who attends College events, RDC's role is to immediately refer the incident to law enforcement officials in the community and to ensure that the person who has experienced Sexual Violence is referred to appropriate support services.

RDC students or employees, who may have been affected by incidents of Sexual Violence unrelated to the College, are encouraged to access any of RDC's support services and programs that would be helpful.

PRINCIPLES:

1. Policies at RDC:
 - 1.1. Treat all persons fairly and respectfully.
 - 1.2. Are non-discriminatory and non-intrusive.
 - 1.3. Incorporate open, honest, and timely communication.
 - 1.4. Are made in a timely manner.
 - 1.5. Provide appropriate confidentiality and privacy.
 - 1.6. Provide appropriate access to the College and education.
 - 1.7. Ensure that all persons have access to informed support regarding policies, procedures, rights, and responsibilities.
 - 1.8. Operate with clear written expectations for conduct and handling of complaints.
 - 1.9. Meet all regulatory standards.
 - 1.10. Maintain and clearly state a high standard of instruction and administration in all areas of educational programs and services.
 - 1.11. Are communicated in alternate forms to those who require such accommodation.
2. The following principles apply specifically to this policy:
 - 2.1. The College recognizes the harm caused by a culture in which common attitudes, norms, and practices tolerate, normalize, trivialize, excuse or outright condone Sexual Violence. Sometimes called “rape culture”, it is perpetuated through images, television, music, jokes, advertising, jargon, words, and figures of speech that normalize sexual coercion and shift blame onto those who have experienced Sexual Violence. As an institution that exists in the context of that culture, RDC takes seriously its responsibility to reduce Sexual Violence by fostering a culture of Consent and support through education, training, and policy.
 - 2.2. RDC respects the rights of individuals who experience Sexual Violence to determine whether they disclose the incident and to decide to whom and what to disclose and whether to file a Formal Report with the College or a complaint with an external law enforcement agency.
 - 2.3. The College treats individuals who disclose Sexual Violence with compassion and respects their ability to determine their own best interests and to decide what information, support, or referrals related to counselling, medical care, legal options, and academic or other accommodations are most appropriate for them. RDC’s primary goal is to support them, ensure their safety, and deal with their concerns in a timely and effective manner.
 - 2.4. The processes of Disclosure, Formal Report, investigation, and institutional response protect the rights of all individuals to dignity, respect, confidentiality, and privacy. Investigation processes balance the duty to ensure procedural fairness for any person accused of Sexual Violence with support and fairness for the person making a Formal Report.
 - 2.5. The standard of proof for the finding of a breach of this policy is based on a Balance of Probabilities.

- 2.6. Individuals who have been found to have committed acts of Sexual Violence are held accountable through the application of appropriate sanctions and discipline as outlined within applicable laws, College policies, regulations, contracts, and collective agreements.

DEFINITIONS:

Accommodation: making reasonable changes to certain rules, standards, policies, workplace cultures, and physical environments to ensure they do not have a negative effect on anyone involved in an incident, Formal Report, or investigation of Sexual Violence.

Balance of Probabilities: the standard of proof used in civil cases, also known as the preponderance of evidence. The evidence indicates that a proposition is more likely than not. In other words, the likelihood of the proposition being true is more than 50%.

Bystander: a witness to an incident of Sexual Violence who is neither the person who experienced Sexual Violence directly nor a Respondent. A Bystander may file a Formal Report.

Complainant: when a Formal Report is made under this policy, the person filing the report is referred to as the Complainant.

Consent: an active, direct, voluntary, unimpaired, and conscious choice and agreement between individuals to engage in physical contact or sexual activity. Guideline 1.1 outlines instances where, according to the *Criminal Code of Canada*, Consent does not exist. In order to consent, individuals must also be of the applicable legal age as described in Guideline 1.2 below.

Disclosure: when an individual shares information about a personal experience of Sexual Violence.

Formal Report: a report of Sexual Violence formally submitted to the College in accordance with this policy.

Incapable: a person is incapable of consenting to sexual activity when they are unconscious, incapacitated by alcohol, drugs, or some other substance or circumstance, or under the age of Consent.

RDC Community: includes registered RDC students (apprentice, credit, and non-credit), employees (faculty, staff, and exempt personnel), volunteers, tenants, contracted service providers, and members of the Board of Governors.

Respondent: the person alleged in a Formal Report to have violated the Sexual Violence Policy.

Retaliation: any adverse action taken against a member of the RDC Community because that person has, in good faith, filed a Formal Report, supported the filing of a Formal Report, disclosed information to the College about a Formal Report, and/or participated in an investigation of a Formal Report of Sexual Violence.

Sexual Assault: any kind of sexual contact without mutual consent. It can include unwanted kissing, fondling, oral or anal sex, intercourse, or other forms of penetration, or any other unwanted act of a sexual nature.

Sexual Violence: any violence, physical or psychological, carried out without Consent through a sexual means or by targeting sexuality. Examples include, but are not limited to, Sexual Assault, sexual harassment, stalking, indecent exposure, voyeurism, and distribution of intimate images.

GUIDELINES:

1. **Culture of Consent:** RDC is dedicated to creating an 'only with Consent' campus culture, by, among other things, promoting an understanding of the parameters of consent as outlined in the *Criminal Code of Canada* (R.S.C., 1985, c. C-46, subsection 273.1, as of September 29, 2017).
 - 1.1. According to subsection 273.1(2), there is no Consent where:
 - 1.1.1. the agreement is expressed by the words or conduct of a person other than the Complainant;
 - 1.1.2. the Complainant is Incapable of consenting to the activity;
 - 1.1.3. the accused induces the Complainant to engage in the activity by abusing a position of trust, power or authority;
 - 1.1.4. the Complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
 - 1.1.5. the Complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.
 - 1.2. The *Criminal Code of Canada* sets the age of Consent to sexual activity at 16 years with the following exceptions (adapted from subsection 150.1 as of September 29, 2017):
 - 1.2.1. The age of Consent for sexual activity that may be exploitive (prostitution, pornography, or sexual activity with a person in a relationship of trust, authority, or dependency such as an instructor, coach, tutor, or mentor) is 18 years.
 - 1.2.2. Youth of 14 or 15 years of age can consent to sexual activity with a person who is less than five years older.
 - 1.2.3. Youth of 12 or 13 years of age can consent to sexual activity with a peer who is less than two years older.
 - 1.2.4. Children younger than 12 are judged incapable of consenting to any sexual activity with any person, regardless of the person's age.
 - 1.3. All sexual acts without Consent constitute Sexual Assault, regardless of age.
2. **Education and Awareness**
 - 2.1. The College provides learning opportunities and resources to help prevent Sexual Violence, raise campus-wide awareness, and support individuals who experience Sexual Violence.

2.2. The Vice President Corporate is responsible for ensuring that an annual report that summarizes the College's education and awareness activities is prepared and shared with the RDC Community.

3. Retaliation and Formal Reports Made in Bad Faith

3.1. It is contrary to this policy to retaliate or threaten to retaliate against anyone for:

3.1.1. filing, intending to file, or supporting a Formal Report made in good faith in accordance with this policy;

3.1.2. being named as the Respondent or a Bystander in a Formal Report;

3.1.3. pursuing rights under this policy or the *Alberta Human Rights Act*; and/or

3.1.4. participating or cooperating in an investigation under this policy or the *Alberta Human Rights Act*.

3.2. The College recognizes the serious nature of Formal Reports made under this policy and may take disciplinary action where allegations of Sexual Violence are shown to be malicious, fraudulent, and/or vexatious.

3.2.1. A Formal Report made in good faith is not a violation of this policy even if it is not proven in an investigation process.

4. Relationship Between RDC Processes and Other Avenues of Remedy

4.1. The College's policies, administrative processes, and discipline systems are independent of the civil and criminal justice systems.

4.2. This policy is not intended to discourage or prevent individuals from exercising any other legal rights they may have.

4.3. Members of the RDC Community alleged to have perpetrated Sexual Violence may be subject to the College's administrative processes and discipline systems in addition to the civil or criminal legal system.

PROCEDURE:

1. Making a Formal Report of Sexual Violence

1.1. Individuals who experience Sexual Violence have the right to determine the course of action they wish to pursue.

1.2. Formal methods of resolution include the following options. Individuals may decide to pursue only one of these options or may pursue both of them at the same time:

1.2.1. A report, referred to as a complaint, can be made to the police in an effort to pursue criminal charges under the Criminal Code of Canada.

1.2.2. A Formal Report can be made to the College under this policy for the purpose of initiating an internal investigation.

1.3. The Security and Emergency Response department handles Formal Reports made to the College. A Formal Report can be made in person, by telephone, or in writing.

1.3.1. Security and Emergency Response can provide information to assist RDC Community members in understanding options for making a Formal Report.

- 1.3.2. Security and Emergency Response will ensure the safety of the individuals involved, refer them to appropriate support services on or off campus, and initiate an investigation.
 - 1.3.3. Individuals who disclose incidents of Sexual Violence to other RDC units or employees will be referred to Security and Emergency Response to file a Formal Report and provided with information on resources and support available.
 - 1.3.4. There is no time limit for making a Formal Report; however, the College encourages individuals to make a Formal Report as soon as they are able to do so, recognizing that the investigation may be more challenging the longer the period of time between an incident and a Formal Report.
- 1.4. In some cases the College may be required to take some action that is independent of the intentions or wishes of the individuals who have experienced or witnessed Sexual Violence in order to mitigate the risk to the larger campus community. If this is necessary, individuals affected will be fully informed and may choose to be supported at every step of the process.

2. Supports and Accommodations

- 2.1. RDC employees who receive Disclosures or Formal Reports of Sexual Violence will facilitate connections to College and community supports and resources, including counselling, medical attention, and an individual security plan.
- 2.2. Following a Disclosure or Formal Report of Sexual Violence, the College will support the provision of appropriate working, academic, and/or living Accommodations for everyone involved in the incident, in accordance with applicable law and College policies.
- 2.3. During an investigation of an incidence of Sexual Violence, the appropriate Vice President will, in accordance with processes outlined in applicable collective agreements or relevant policies, facilitate measures to support the Complainant, Bystanders, and/or the Respondent.

3. Confidentiality

- 3.1. All persons involved in a Formal Report and/or investigation of Sexual Violence, and where otherwise appropriate, are to maintain confidentiality of information as required by law and College policy. The College treats Formal Reports as confidential, subject to the following limitations:
 - 3.1.1. when an individual is judged to be at imminent risk of harming themselves and/or others;
 - 3.1.2. there are reasonable grounds to believe that members of the College community or wider community may be at risk of harm;
 - 3.1.3. the investigation process necessitates making the identity of the Complainant known to the Respondent in order to promote fairness for all parties;
 - 3.1.4. the Complainant, the Respondent, and/or the College exercises their right to discuss the incident with legal counsel bound by professional standards of confidentiality;

- 3.1.5. report and/or conduct of an investigation is required by law, by College policies, or by an external body with appropriate authority; and/or
 - 3.1.6. evidence of the alleged Sexual Violence is available in the public realm.
 - 3.2. Confidentiality is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* (Alberta), other legislation, professional standards, and College policy.
 - 3.3. Subject to the statements above, the names of the Complainant and the Respondent and the circumstances of the incident will not be disclosed by the College to any person except, when necessary, for the purposes of investigating and resolving the Formal Report and taking any related disciplinary measures.
- 4. Right to Forego or Withdraw a Formal Report and Limitations to this Right**
- 4.1. A person who has experienced Sexual Violence has the right to forego filing criminal charges or a Formal Report or to withdraw a Formal Report at any stage of the process.
 - 4.2. The College reserves the right, however, to act or continue to act on a Formal Report or participate in a criminal legal process in order to:
 - 4.2.1. comply with its obligations under this policy and/or its legal obligations,
 - 4.2.2. ensure fairness to other persons including the Respondent, and/or
 - 4.2.3. protect other members of the College or external community when it believes there is a safety risk.
 - 4.2.3.1. In these circumstances, the College has a duty to initiate an internal investigation through Security and Emergency Response and/or inform law enforcement authorities of the need for a criminal investigation, even without the permission of the Complainant.
 - 4.2.3.2. All reasonable efforts shall be made by the College and the members of the College community to minimize further distress to the Complainant when the need to involve law enforcement authorities arises.
- 5. Multiple Proceedings**
- 5.1. Where criminal and/or civil proceedings are commenced in respect to a Formal Report of Sexual Violence, the College may conduct its own independent investigation into such Formal Reports and will make its own findings in accordance with its policies and procedures.
 - 5.2. Where there is an ongoing criminal investigation into the same Formal Report, the College will cooperate with the law enforcement authorities in conducting its investigations but may not necessarily suspend or cease its internal investigation pending the criminal investigation and prosecution process.
- 6. Sanctioning Retaliation and Formal Reports Made in Bad Faith**
- 6.1. Any member of the RDC Community who undertakes, participates in, or directs a Retaliation, or who makes a report of Retaliation in bad faith, will be subject to

disciplinary action, up to and including termination of employment, expulsion, or termination of contract.

- 6.2. Formal Reports of Sexual Violence that are made with an ulterior purpose, including to purposely annoy, embarrass, or harm the Respondent, are considered frivolous, vexatious, or made in bad faith. They may result in sanctions and/or disciplinary action against the Complainant, up to and including termination of employment, expulsion, or termination of contract.
- 6.3. Sanctions and/or disciplinary action will follow the appropriate College or Board of Governors policies, contract or collective agreement provisions, or terms and conditions of employment for exempt staff.

7. Investigation of Formal Reports Alleging Sexual Violence

- 7.1. Once a Formal Report involving an allegation of Sexual Violence has been received, the College will appoint an investigator, either internal or external to the College, who has completed trauma-informed investigation training to complete the investigation.
 - 7.1.1. An investigation will normally include notification to the Respondent of all allegations, interviews with all individuals involved in the incident (including witnesses), collection and review of evidence, and findings of fact made on the Balance of Probabilities. Upon completion of the investigation, the investigator will prepare a report based on the interview statements and evidence collected. The investigator will also make a determination as to whether or not the findings constitute a violation of policy or law.
- 7.2. The investigator's report will be sent to the Vice President responsible for applying the appropriate disciplinary and non-disciplinary processes under the relevant College policies, regulations, contracts, collective agreements, and terms and conditions of employment. That Vice President will provide both the complainant and the respondent with a summary of the investigation results, their decision, reasons for the decision and any applicable sanctions.
 - 7.2.1. Depending upon the status of the Respondent, discipline or sanctions may include, but are not limited to: termination of employment, expulsion from the College, cancellation of contracts or tenancy leases, or being banned from campus.
 - 7.2.2. Appeals of disciplinary decisions may be made according to the processes outlined in the relevant policies, regulations, contracts, collective agreements, and terms and condition of employment.

Acknowledgements: This policy draws upon the Sexual Violence Framework developed by Alberta Senior Student Services Officers as well as the Sexual Violence policies of MacEwan University, Mount Royal University, the University of Alberta, Ryerson University, and the University of Calgary.

OFFICER RESPONSIBLE: Vice President Corporate

RECOMMENDING AUTHORITY: Service Council, Deans' Council

CONSULTATION FOR REVIEW: Deans' Council, Service Council, Counselling & Career Centre, Health, Safety & Wellness Centre, Security & Emergency Response, Red Deer College Students' Association, Faculty Association of Red Deer College, Alberta Union of Public Employees Local 071, Canadian Union of Public Employees Local 1445, and appropriate external community organizations.

POLICY REVIEW DATE: January 2019

EFFECTIVE DATE: January 1, 2018

REVISION HISTORY: New Policy

RELATED POLICIES:

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- [Appeals: Informal Resolution](#)
- [Emergency Response And Business Resumption Plan](#)
- [Harassment and Discrimination](#)
- [Student Misconduct: Academic and Non-Academic](#)
- [Student Rights and Responsibilities](#)

CONNECTION TO BOARD POLICIES:

All RDC policies support relevant Board of Governors policies.