



Medicine Hat College Policy SEXUAL VIOLENCE

Policy #:	SD-01
Policy Authority:	Director, Human Resources Registrar
Executive Sponsor:	Vice-President, Academic
Approved by:	President
Effective Date	September 18, 2019
Next Mandatory Review Date:	September 18, 2022
Frequency of Review:	Every 3 years

1. POLICY OBJECTIVE

Individuals have a right to work and study in an environment that is free from any form of sexual violence. This document sets out our institutional commitment and response protocol to sexual violence. It ensures that employees and students who experience sexual violence are supported and their rights respected, that the college has a process of investigation that protects the rights of individuals, and holds individuals who have committed an act of sexual violence accountable.

Our Commitment: sexual violence is unacceptable and will not be tolerated. We are committed to challenging and preventing sexual violence and creating a safe space. The college is a safe and positive space where employees and students are able to work, learn, and express themselves in an environment free from sexual violence.

It is the college's objective to make individuals feel comfortable about making a report in good faith about sexual violence that they have experienced or witnessed.

2. POLICY SCOPE

This policy applies to all employees and students of Medicine Hat College (MHC) both on and off college premises while engaged in college related activities including work or study related travel. It includes but is not limited to interactions that are face-to-face, by telephone, or electronic communications.

It also applies to contractors while engaged in activities related to the terms of their contract both on and off college premises.

3. DEFINITIONS

- **Acquaintance Sexual Assault:** sexual contact that is forced, manipulated, or coerced by a partner, friend, or acquaintance.

- **Age of Consent for Sexual Activity:** the age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve and 13 year-olds may consent to have sex with other youth who are less than two years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than five years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.
- **Campus/Community Partner:** campus and community resources working in partnership to provide programs, services, and resources to support employees and students (e.g. Student Association, Faculty Association, Alberta Health Services, Sexual Assault Response Committee.)
- **Coercion:** the denial of free and informed consent. In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, harm, or other violence, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.
- **Consent:** the voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be a clear and understandable agreement by words or conduct which indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following
 - (a) Silence or non-communication must never be interpreted as consent where one party is in a position of trust, power, or authority. i.e faculty member to student or administrator to direct report.
 - (b) A person is incapable of giving consent if they are asleep, unconscious, in a state of diminished judgement, or otherwise unable to communicate.
 - (c) A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.
 - (d) A person who is drugged is unable to consent.
 - (e) A person may be unable to give consent when under the influence of alcohol and/or drugs.
 - (f) A person may be unable to give consent if they have a mental disability.
 - (g) The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity.
 - (h) A person can withdraw consent at any time during the course of a sexual encounter.
 - (i) Consent cannot be given on behalf of another person.

It is the responsibility of the parties involved in sexual acts to ensure clear and affirmative consent is freely given by all parties, and further that should one of the participating parties withdraw their consent that it is adhered to immediately.

Every person engaging in sexual acts must take all reasonable steps to ascertain the age of the other party(s) and that the other party(s) is/are consenting.

(Note: For the *Criminal Code of Canada* definition of “consent”, please see Appendix A.)

- **Disclosure:** when a survivor discloses to a college employee that they have experienced a form of sexual violence or when a secondary disclosure is received by a college employee.
- **Drug-facilitated Sexual Assault:** the use of alcohol and/or drugs, knowingly or unknowingly, (prescription or non-prescription) by a person to control, overpower, or subdue another person and commits a sexual assault on that person.
- **Formal Report/Complaint:** when a survivor files a formal report or complaint of an incident of sexual violence for the purposes of initiating some form of investigation.
- **MHC or the College:** Medicine Hat College.
- **Rape Culture:** a culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexual violence and by blaming survivors for their own abuse.
- **Secondary Disclosure:** when the survivor discloses to someone other than a college employee and that disclosure is then shared with a college employee.
- **Sexual Assault:** a criminal offence under the *Criminal Code of Canada*. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the survivor and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours including but not limited to the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to. (Lack of a physical injury does not mean that a person was not sexually assaulted. Refer to Appendix B – Dispelling the Myths and Misconceptions About Sexual Assault.)
- **Sexual Harassment:** any unwelcome behaviour of a sexual nature, which has the effect of interfering with a person’s work or educational performance, or creates an intimidating, hostile or offensive work or educational environment such as unwanted sexual advances, unwanted requests for sexual favours, and other unwanted verbal or physical conduct or contact of a sexual nature. It may be a single incident or a series of incidents.

Examples of sexual harassment include, but are not limited to

- (a) unwanted sexual solicitation, especially that of a repeated, persistent, or abrasive nature;
 - (b) sexually-oriented or gender-based remarks and/or behaviour directed towards an individual or group that may be perceived by a reasonable person to create a negative psychological and emotional environment for work and/or study;
 - (c) remarks, jokes, or innuendos about sex where the speaker has been advised, or should otherwise be aware, that such comments are offensive or demeaning or where they are by their nature offensive or demeaning;
 - (d) leering or other offensive or sexually suggestive or obscene gestures;
 - (e) derogatory or degrading remarks used to describe or which are directed toward employees of one gender;
 - (f) the display or distribution (either mechanically or through the use of electronic media and e-mails) of sexually explicit or otherwise offensive material. (Note that an exception to this is where the material is used for educational or academic purposes);
 - (g) refusing to work with people because of their gender;
 - (h) advances, invitations, or propositions of a sexual nature or repeated invitations after previous requests have been refused;
 - (i) persistent unwanted contact or attention after the end of a consensual relationship;
 - (j) any explicit or implicit advances, invitations or propositions of a sexual nature which might, on reasonable grounds, be perceived as placing a condition on a person's employment, work assignment, compensation or benefits or on any opportunity for training, promotion or career development;
 - (k) unwanted physical contact including touching, patting, rubbing, or pinching;
 - (l) verbal abuse or threats of a sexual nature;
 - (m) indecent exposure, stalking or sexual assault;
 - (n) any implied or expressed promise of reward or threat of consequence for complying or not complying with a sexually oriented request;
 - (o) when submission to such conduct, as set out above, is made either explicitly or implicitly a term of, or condition of, an individual's employment or education and;
 - (p) when submission to or rejection of such conduct, as set out above, by an individual affects that individual's employment or education or individual's academic evaluation or performance review.
- **Sexual Violence:** a broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual abuse and sexual assault. In this policy, sexual violence includes but is not limited to sexual assault, sexual harassment, drug facilitated sexual assault, and stalking.
 - **Stalking:** a form of criminal harassment prohibited by the *Criminal Code of Canada*. It involves behaviours that occur on more than one occasion and which reasonably causes a person to fear for their safety, or for the purpose of compelling another person to abstain from doing something that they have a lawful right to do, or to do anything that they have a lawful right to abstain from doing.

Stalking can also include threats of harm to the target's friends and/or family. These behaviours include, but are not limited to non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; "creeping" via social media; cyber-stalking; and uttering threats.

- **Survivor:** some who have experienced sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term "victim". We use the term "survivor" throughout this policy where relevant because some who have experienced sexual assault believe they have overcome the experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify. For the purposes of internal investigations, the survivor will also be referred to as the complainant.

4. PRINCIPLES

4.1 MHC is committed to

- (a) the creation of a campus atmosphere in which sexual violence is not tolerated;
- (b) ensuring those who disclose that they are survivors of sexual violence are supported, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response;
- (c) treating individuals who disclose sexual violence with respect, recognizing that they are the final decision makers (and where applicable, their legal guardian) about their own best interests; and
- (d) addressing harmful attitudes and behaviours (e.g. adhering to myths of sexual violence that reinforce that the person who experienced sexual violence is somehow to blame for what happened.) Refer to Appendix B – Dispelling the Myths and Misconceptions about Sexual Assault.

4.2 MHC recognizes that sexual violence can occur between individuals regardless of sexual orientation, gender, gender identity, gender expression or relationship status as articulated in the Alberta Human Rights Act. We also recognize that individuals who have experienced sexual violence may experience emotional, academic and/or other difficulties.

5. DIRECTIVES

5.1 MHC will

- (a) assist those who have experienced sexual violence by providing reporting options including
 - criminal complaint – report/complaint made to the police in an effort to pursue criminal charges under the *Criminal Code of Canada*,
 - non-criminal – report/complaint pursued on campus through our administrative policies,
 - civil complaint – obtaining legal counsel to pursue action through civil court, or

- seeking support only with campus/community partners without making a formal report/complaint.
- (b) provide detailed information and support, provision of and/or referral to counselling and medical care, information about appropriate academic and other accommodation;
- (c) ensure that on-campus (internal) investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police;
- (d) engage in appropriate procedures for investigation and adjudication of a complaint which are in accordance with college policies, standards, and applicable collective agreements, that ensure fairness and due process;
- (e) ensure coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- (f) engage in public education and prevention activities;
- (g) provide information to employees and students about MHC sexual violence policies and procedures; and
- (h) provide appropriate education and training to employees and students about responding to the disclosure of sexual violence.

6. RESPONSIBILITIES

5.1 Employees and Students will

- (a) ensure they understand and comply with this policy;
- (b) not retaliate against anyone who has made a complaint, given evidence or assisted anyone else in making a complaint;
- (c) report any incidents of sexual violence involving students to the Registrar or designate. Reports involving employees will be referred to Director, Human Resources or designate; and
- (d) co-operate when requested, in the investigation and/or resolution of complaints under this policy.

5.2 Student Services will

- (a) manage and investigate incidents relating to students;
- (b) provide ongoing education and awareness for all students;
- (c) provide support to the survivor and respondent;
- (d) coordinate on and off-campus support and the provision of advice regarding support services available; and
- (e) involve local Police Service and RCMP as required in consultation with Safety and Security.

5.3 Human Resources will

- (a) manage and investigate incidents relating to employees;
- (b) collaborate with Student Services to establish on-going training and awareness for all employees;
- (c) consult with and provide advice to supervisors and employees;
- (d) inform of the availability of EAP (Employee Assistance Program) services; and
- (e) advise members on their rights and responsibilities.

5.4 AUPE and MHC Faculty Association will

- (a) represent employees as required.

5.5 Students' Association will

- (a) in collaboration with Student Services, provide education, support and awareness; and
(b) support and represent students as required.

5.6 Safety and Security will

- (a) respond and follow appropriate protocols as required;
(b) collaborate in the event of a disclosure and/or investigation; and
(c) liaise with local Police Service and RCMP as required.

5.7 College Advancement and Community Relations will

- (a) coordinate communications with institutional leadership;
(b) develop an internal and external communication plan; and
(c) liaise with media.

5.8 While everyone on campus has a role to play in responding to incidents of sexual violence, some campus members will have specific responsibilities which might include

- on-campus health supports to provide psychological and emotional support, assist with safety planning, provision of options and make referrals to other services, including medical services;
- employees to facilitate academic accommodations and other academic needs of those who have experienced sexual violence, e.g. extensions on assignments, continuing studies from home, and dropping courses; and
- residence staff to facilitate safe living arrangements to the best of their abilities.

7. APPLICABLE LEGISLATION/REGULATIONS

Criminal Code of Canada
Alberta Human Rights Act
Canadian Human Rights Act
Canadian Charter of Rights and Freedoms
Occupational Health and Safety Act
Freedom and Information and Privacy Act

8. RELATED POLICIES

HR-01: Respectful Work and Learning Environment
HR-05: Workplace Relationships
HS-01: Occupational Health and Safety
SD-04: Student Non-Academic Misconduct
6.10: Workplace Violence
6.11: Alcohol Management
7.28: Code of Conduct
8.6: Information Management Acceptable Use

9. RELATED PROCEDURES

- PR-SD-01-01: Sexual Violence – Reporting and Responding
- PR-HR-01-01: Respectful Work and Learning Environment Complaint Resolution
- PR-SD-04-01: Student Non-Academic Misconduct
- PR-HR-05-01: Workplace Relationships

10. RELATED INFORMATION

- Appendix A – Criminal Code of Canada – Definition of Consent
- Appendix B – Dispelling the Myths and Misconceptions About Sexual Assault
- Appendix C – Guide for Individuals Impacted by Sexual Violence
- Appendix D – Guide for Employees Responding to a Disclosure of Sexual Violence
- AUPE Agreement
- Academic Calendar

ORIGINAL COPY SIGNED

Kevin Shufflebotham
President and CEO

Date: September 18, 2019

ORIGINAL COPY SIGNED

Terry Chapman
Vice-President, Academic

Date: September 18, 2019

DOCUMENT HISTORY

February 2017	Policy approved
September 2019	Revised policy approved