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## **PURPOSE**

NVIT is committed to providing a safe and supportive environment for all members of the NVIT community. The intent of the *Sexual Violence Prevention & Response Policy* is to provide a unified approach to the prevention of and response to incidents of sexual violence and misconduct. Given that NVIT is an Indigenous educational institution, it is crucial to implement this policy through an Indigenous lens that acknowledges the systemic impacts on *Missing and Murdered Indigenous Women and Girls* and the broader historical and contemporary injustices faced by Indigenous peoples. The purpose of this policy is to:

- Promote a safe campus environment in which sexual violence and misconduct are not tolerated.
- Work with Housing staff to ensure that NVIT student housing is a safe living environment.
- Ensure that those who have experienced sexual violence or misconduct receive equitable and respectful support, ensuring they are treated with compassion and dignity.
- Establishing a fair, supportive and effective response to reports or disclosures of sexual violence or misconduct and that they are responded to appropriately and promptly.
- Promotion of a culture of safety, support and openness that diminishes sexual aggression and survivor blaming.
- Provide education and awareness to the NVIT community about the prevention of sexual violence and misconduct.
- On-campus support to provide emotional well-being, academic or accommodation support, and assistance with safety planning and referrals to other services, including medical services.

## **SCOPE**

This policy was developed in response to the *Sexual Violence and Misconduct Policy Act* (the Act) passed by the BC provincial government on May 19, 2016. In accordance with the Act, this policy outlines Nicola Valley Institute of Technology's (NVIT) position on sexual violence and the response procedures for any incident occurring on or off campus involving any member of the NVIT community. In the event of a disclosure or report, the Institute is committed to taking necessary and appropriate measures to protect the safety and well-being of the NVIT community and its learning environment. This commitment includes addressing allegations of serious misconduct, which may involve taking necessary and appropriate action in cases where a member of the NVIT community is involved, regardless of where the alleged conduct occurred, as long as there is a discernible connection to the NVIT community.

## **POLICY**

Individuals who have experienced sexual violence or misconduct will be treated with compassion,

dignity, and respect. Nicola Valley Institute of Technology does not condone or tolerate sexual violence or misconduct. We are dedicated to fostering a learning and working environment marked by mutual respect, safety, civility, and the freedom to pursue inquiry without fear. While sexual violence affects individuals across all sectors of society, NVIT recognizes that its consequences may disproportionately impact members of social groups experiencing intersecting forms of systemic discrimination or barriers. These groups include but are not limited to, those based on gender, sexual orientation, gender identity and expression, race, religion, Indigenous identity, ethnicity, disability, or socioeconomic class.

Safety at NVIT is a priority. This policy articulates the Institute's procedures for prevention, support, education, awareness, training, and response to incidents of sexual violence. NVIT seeks to reduce barriers to disclosure and reports and takes a Trauma-Informed Approach when responding to disclosures/reports. NVIT will train persons responsible for addressing sexual misconduct on Trauma-Informed Approaches.

Members of the NVIT community who disclose experiences of sexual violence will be respected in their choices as to how to proceed. Disclosures and reports are private, confidential, and subject to BC's Freedom of Information and Protection of Privacy Act (FOIPPA). It is the right of those who experience sexual violence to decide whether to access available services and, if so, which services to access and whether to report to police or campus personnel.

The following objectives guide NVIT's response to addressing incidents of sexual violence or misconduct:

- To honor and uphold the legacy of Missing and Murdered Indigenous Women and Girls (MMIWG) by fostering a safe, respectful learning environment through education on systemic violence, prevention of harm, and support for Indigenous students and communities.
- To implement reasonable measures to mitigate the safety risk to individuals within the NVIT community.
- To provide appropriate assistance and support to NVIT community members who are affected by sexual violence or misconduct.
- To provide procedural guidelines for responding to disclosures or reports of sexual violence or misconduct.
- To foster collaboration between relevant departments and services, utilizing all relevant and existing policies to effectively address disclosures or reporting of sexual violence or misconduct involving NVIT community members.

All processes must follow the principles of natural justice, ensuring equitable protection of the rights of both the complainant and the accused individual.

**Definition of Sexual Violence:** Sexual violence encompasses a spectrum of non-consensual sexual contact and behaviours, including sexual harassment and sexual assault. It can be perpetrated by various individuals, ranging from acquaintances and classmates to family members and strangers. This term encompasses any unwanted act, whether physical, verbal, or psychological, conducted through sexual means or by targeting sexuality. Forms of sexual violence include sexual assault, harassment, stalking, exposure, voyeurism, cyber harassment, trafficking, and exploitation.

For this policy, neither formal criminal charges nor a human rights report are necessary for this definition to operate.

## RESPONSE PROCEDURES

Individuals who disclose or report an experience of sexual violence or misconduct have the following rights:

- Confidentiality.
- To be treated with dignity and respect.
- To be informed about on and off-campus services and resources.
- To be informed about the procedures in place to address sexual violence and reporting options.
- To decide whether to access available services and choose the services they believe will be most beneficial.
- To make an informed decision regarding whether to report the incident to campus authorities and/or local police.
- To have a plan to protect their safety.
- To have reasonable and necessary actions taken to prevent further unwanted contact with the other individual involved in the incident of sexual violence.

A party to sexual violence may choose to disclose or file a report with any member of the NVIT community. All disclosures and reports received by any member of the NVIT community must be forwarded to the Associate Vice President of Students and/or Manager, Human Resources for the completion of a *Sexual Violence Incident Report*. Subject to this policy and the limits to confidentiality herein, every effort will be made to protect the confidentiality of all parties involved.

Any member of the NVIT community who experiences or witnesses sexual violence, including incidents off-campus, or has reason to believe that sexual violence has occurred may pursue any of the options outlined below:

### 1. **Disclosure:**

Individuals who have experienced sexual violence who do not want to report the experience through the criminal justice system or NVIT's report option may choose to disclose their experience to any other member of the NVIT community. Disclosures may not initiate a process to investigate sexual violence or engage in any resolution process but can be used as a tool to establish patterns and timelines.

- a. **Students** may opt to disclose their experience to NVIT personnel and/or a counselling agency to receive the support and academic accommodations that may be needed.
  - i. The NVIT personnel will notify the Associate Vice President, Students, Success Centre Manager, or Registrar of the disclosure.

- ii. The Associate Vice President, Students, Success Centre Manager, or Registrar will follow up with the student and meet with them to determine if the incident remains a disclosure or a report will be made.
  - iii. If no report is made, the Associate Vice President, Students, Success Centre Manager, or Registrar will offer internal, external, and Elder support.
  - iv. The Associate Vice President, Students, Success Centre Manager, or Registrar will only record the disclosure for tracking purposes. No action will be taken unless an official report is filed or is deemed necessary by the President of NVIT.
- b. **An Employee, Elder, Board Member, or Contractor** may opt to disclose their experience to NVIT personnel to receive the support and accommodations that may be needed.
  - i. The NVIT personnel will notify the Manager, Human Resources of the disclosure.
  - ii. The Manager, Human Resources will follow up with the individual and meet with them to determine if the incident remains a disclosure or if a report will be made and to offer internal, external, and Elder support.
  - iii. The Manager, Human Resources will record the disclosure for tracking purposes only. No action will be taken unless an official report is filed or is deemed necessary by the President of NVIT.
- c. **Third-party disclosure** of sexual violence should be directed as follows:
  - i. Incidents involving students should be reported to the Associate Vice President, Students, Success Centre Manager, or Registrar.
  - ii. Incidents involving employees, Elders, members of the Board of Governors or contractors should be reported to the Manager, Human Resources.
- d. **Anonymous disclosures** of sexual violence should be directed as follows:
  - i. Incidents involving students or NVIT community members can be reported anonymously using NVIT's online reporting tool, located on the NVIT website, or by contacting the Associate Vice President, Students, Success Centre Manager, or Registrar.

## 2. **Report:**

A report will initiate an investigation and/or resolution process. A report should be directed as follows:

- a. **Students (on-campus, online, and in the community)** – an NVIT counselling agency, the Associate Vice President, Students, Success Centre Manager, Registrar, Elders, Student Housing Coordinator or Advisor;
  - i. The Associate Vice President, Students, Success Centre Manager, or Registrar will be notified of the incident(s), and the reporting process will be initiated.
    - 1. Underage and high school students will be referred to the Ministry of Children and Family Development for the reporting process.

2. Individuals may choose to report their allegations through the criminal justice system by contacting the RCMP, local policing authority or tribal police. If an individual chooses this option, NVIT can facilitate making a report to the police and will cooperate with any criminal investigation.
  - ii. The report process begins with the Associate Vice President, Students, Success Centre Manager, or Registrar contacting both the complainant and respondent to record responses to the allegations.
    1. To mitigate bias and conflict of interest, if the Associate Vice President, Students, Success Centre Manager, or Registrar is supporting either the complainant or respondent, they cannot request responses to the allegations.
    2. The Associate Vice President, Students, Success Centre Manager, or Registrar will join the Hearing Circle to present the information.
  - iii. The President will appoint members of the Hearing Circle. This committee will consist of:
    1. NVIT Elder
    2. Department Chair (not in the same program as the complainant or respondent)
    3. A non-bias employee
  - iv. The Associate Vice President, Students, Success Centre Manager, or Registrar will present the information from the complainant and respondent to the Hearing Circle. The Hearing Circle will determine if the allegations against the respondent violated the Sexual Violence Prevention and Response Policy and forward their decision to the Associate Vice President, Students Office.
  - v. The Associate Vice President, Students or Designate will review the findings and send the final recommendations and outcomes to the President. The Associate Vice President, Students or Designate will follow up with a decision letter to the complainant and respondent. The record of the incident is kept on file for tracking purposes.
  - vi. If a respondent is dismissed from NVIT and wants to return, a behavioural or conditional contract will be required through the Associate Vice President, Students Office.
  - vii. Appeals from Students will follow the procedures outlined in the C.1.6 Individual Conduct Policy.
- b. **Employees, Elders, Board Members, or Contractors** – Manager, Human Resources. If the respondent is the Manager, Human Resources, the report should be submitted to the President, and if the respondent is the President, the report should be submitted to the Manager, Human Resources and addressed to the Chair of the NVIT Board.
  - i. The investigation and/or resolution process will be initiated according to the procedures under NVIT policy B.2.6 Human Rights.



1. Individuals may choose to report their allegations through the criminal justice system by contacting the RCMP, local policing authority or tribal police. If an individual chooses this option, NVIT can facilitate making a report to the police and will cooperate with any criminal investigation.

**c. Campus Visitors – Manager of Facilities.**

**Under this Policy, individuals can bring forward a report or disclosure at any time without limitation.**

**INTERIM MEASURES**

Before an investigation or resolution process commences, NVIT will provide information on the range of supports and services, including academic and non-academic accommodations, available to the victim/survivor to ensure ongoing safety and success. Interim measures may include, but are not limited to:

- a. Alteration of academic scheduling or other academic accommodation, such as extensions on assignments, deferrals of exams, and assistance in withdrawing from a course without penalty.
- b. No-contact directives or undertakings.
- c. Workplace accommodations.
- d. If the victim/survivor or alleged perpetrator lives in residence, alternative housing arrangements may be made during an investigation if necessary to protect the victim/survivors or others.
- e. Restrictions on access to institution facilities by the alleged perpetrator if the institution determines a safety risk, including removal from classes, residence, or part or all of the campus.
- f. If the victim/survivor or alleged perpetrator is an employee of the institution, reassignment, administrative leave of absence, or other interim measures may be taken during an investigation; and
- g. Any other interim restrictions as may be determined by the Institute.

**ACADEMIC ACCOMMODATIONS**

A student who has experienced sexual violence, including sexual violence at a non-NVIT sanctioned activity, and who may require an academic accommodation (for example, exam deferral, an extension on an assignment, withdrawing from a class, changing location of studies to another campus or from home, etc.), will be supported by the NVIT Student Success Centre Manager.

A student requesting academic accommodations under this policy is not required to file a report or report of sexual violence to receive an academic accommodation.

**POLICY REVIEW**

To maintain the policy's currency and relevance, the content will be revisited and updated every three (3) years or when relevant social, resource, or legal changes otherwise warrant any updates.

The President will report to the Board of Governors on implementing this policy annually.

## LIMITATIONS TO CONFIDENTIALITY AND REPORTING

The following circumstances may require the Institute, represented by the Associate Vice President of Students and/or the Manager of Human Resources, or their Designate to take immediate action concerning disclosure of sexual violence, including, but not limited to, the Institute directly contacting law enforcement authorities.

- An individual is a minor or a vulnerable individual under the *Child, Family and Community Services Act*, and reporting is required by law
- An individual is at imminent risk of severe or life-threatening self-harm.
- An individual is at imminent risk of harming another person.
- There are reasonable grounds to believe that others in the NVIT community may be at risk of harm based on the information provided.

NVIT has a responsibility to balance the needs of the person who has disclosed an experience of sexual violence with the obligation to protect the wider NVIT community.

## DEFINITIONS

**Coercion:** In the context of sexual assault/violence/misconduct, unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, 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.

**Complainant:** The person who has filed a formal report to the Institute alleging a policy violation.

**Confidentiality:** Confidentiality means protecting the privacy of personal information and preventing the disclosure of information to others. Every effort will be made to protect the privacy and anonymity of anyone who discloses an incident of sexual violence. The expressed consent of the individual who disclosed the incident is required prior to disclosure of any information, except in circumstances where *limits to confidentiality* apply.

**Consent:** An agreement between individuals that is active, direct, voluntary, un-coerced, ongoing, unimpaired and based on a conscious choice to engage in sexual activity. Consent can be withdrawn at any time. For greater clarity:

- Consent is active, not passive or silent.
- Consent must be affirmative, ongoing, informed, respectful, and engaged. There is no consent when a person, by words or conduct, expresses a lack of agreement to engage in the activity.
- Consent can never be assumed or implied. It is the responsibility of the person who wants to engage in physical contact or sexual activities to make sure they have Consent from the other person(s) involved.
- Consent to one kind of sexual activity does not mean that consent is given for another sexual activity.

- Consent cannot be obtained through threats, coercion or other forms of control and intimidation, which includes an abuse of a position of trust, power or authority.
- Consent is not obtained if any individual is:
  - Incapacitated due to consumption of alcohol or drugs; any sexual activity involving alcohol or drug use requires the standard of affirmative consent; the use of alcohol and/or drugs by an individual never implies consent and should not be assumed to.
  - Asleep or unconscious.
  - Under the legal age of consent as defined in the Canadian Criminal Code
- A person is incapable of giving consent to a person in a position of trust, power or authority, such as a faculty member initiating a relationship with a student they teach or an administrator in a relationship with anyone who reports to that position.

**Discipline:** Action is taken to address unacceptable student or employee conduct, which may include any conduct that has the effect of disrupting the learning or work environment or that is a threat or perceived to be a threat to the safety of other students, employees, or members of the NVIT community, whether conducted on or off campus (e.g. field trip, practicum, etc.).

**Disclosure:** Notification from an individual that they have experienced an incident of sexual violence (different from *report*).

**Indecent Exposure:** The act of intentionally showing one's sexual organs in public.

**No-Contact Directive:** A directive from the Institute to a person to refrain from contacting or interacting with another person or any other directive as may be determined by the Institute.

**No-Contact Undertaking:** An agreement, mutually undertaken by two or more people, to refrain from contacting or interacting with one another based on specified conditions.

**NVIT Community:** Students, employees, Elders, visitors, Board of Governors members and contractors at any NVIT campus or community where NVIT courses are delivered.

**Report:** Formal notification to an NVIT representative from an individual who has experienced sexual violence that an incident(s) has taken place. The report may be accompanied by a request for action (different from *disclosure*).

**Sexual Assault:** The Criminal Code of Canada doesn't explicitly define sexual assault but rather encompasses it within the broader category of assault. Assault is characterized as the deliberate application of force to another person, with or without their consent, including instances where consent has been retracted. Canadian courts interpret sexual assault as an assault occurring in a sexual context, which violates the integrity of the victim/survivor. The Criminal Code outlines three distinct levels of sexual assault: Level 1: Sexual Assault; Level 2: Sexual Assault with a Weapon, Threats to a Third Party, or Causing Bodily Harm; and Level 3: Aggravated Sexual Assault.



**Sexual Harassment:** Sexual harassment is defined under this Policy as *engaging in a vexatious comment or conduct of a sexual nature that is known or ought to reasonably be known to be unwelcome*. Sexual harassment often occurs in environments in which sexist or homophobic jokes and materials have been allowed and may involve the use of social media to bring about this unwanted attention.

**Substance-Facilitated Sexual Assault:** refers to the use of alcohol and/or drugs to intentionally sedate or incapacitate another individual to commit a sexual assault.

**Stalking:** A form of harassment involving behaviours that occur on more than one occasion, which collectively instills fear in a person or threatens a person's safety or mental/emotional health. Stalking, in the context of this policy, pertains to harassment where the behaviours are sexual, including those by a current or former intimate partner. Stalking can also include threats of harm to a person'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/cyberstalking.
- Uttering threats.

**Student:** An individual who is registered or was registered in a course or program of study at the Institute at the time an incident of sexual violence is alleged to have occurred.

**Technology-Facilitated Sexualized Violence (TFSV):** Any form of sexualized violence that occurs online is considered technological-facilitated sexualized violence. TFSV refers to a wide range of unacceptable, violent, and abusive behaviours, where technology is used as a central tool to carry out these behaviours. These behaviours can include online sexual harassment, online threats of sexual violence, trolling, non-consensual distribution of intimate images, and many other harmful behaviours that occur online and/or facilitated using technology.

**Third-Party:** A disclosure made by an individual who is not the complainant or respondent.

**Trauma-Informed:** An approach that incorporates the understanding of the impact that sexualized violence can have on a person's life to minimize possible re-victimization and to support recovery and empowerment.

**Voyeurism:** The practice of gaining sexual gratification by secretly observing unsuspecting individuals.

**For more information, contact the Associate Vice President of Students or Manager, Human Resources at 1-877-682-3300.**

## **RELATED POLICIES**

NVIT community members who are confirmed to have committed an act of sexual violence will be held accountable by the institute and may be subject to disciplinary action up to and including expulsion or termination. Action may be determined under federal and provincial laws such as the *Criminal Code of Canada* and institutional policies, including but not limited to:

- *B.2.6 Human Rights*

- *B.2.8 Conflict of Interest*
- *B.2.9 Health and Safety*
- *B.4.1 Acceptable Computer Use*
- *C.1.6 Student Conduct*
- *Personnel: Code of Conduct*
- *NVIT/NVITEA Collective Agreement*