

MINISTER OF POST-SECONDARY EDUCATION
AND FUTURE SKILLS

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SEXUAL VIOLENCE POLICY ACT

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HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

“**advisory committee**” means an advisory committee established under section 6;

“**disclosure**” means a communication, other than a formal allegation, that sexual violence occurred or may have occurred;

“**faculty member**” includes the following:

(a) a faculty member as defined in the following Acts:

(i) the *College and Institute Act*;

(ii) the *Thompson Rivers University Act*;

(iii) the *University Act*;

(b) a professor as defined in the *Royal Roads University Act*;

“formal allegation” means a report to the post-secondary institution

- (a) alleging that sexual violence occurred, and
- (b) requesting that the post-secondary institution take action in response to the alleged sexual violence;

“governing body”, in relation to

- (a) the *College and Institute Act*, means the board of an institution within the meaning of that Act,
- (b) the *Royal Roads University Act*, means the board of governors of Royal Roads University,
- (c) the *Thompson Rivers University Act*, means the board of governors of Thompson Rivers University, and
- (d) the *University Act*, means the board of governors of a university within the meaning of that Act;

“member of the institutional community”, in relation to a post-secondary institution, includes

- (a) a student,
- (b) a faculty member of the post-secondary institution,
- (c) a member of the governing body of the post-secondary institution,
- (d) an employee of the post-secondary institution,
- (e) a contractor of the post-secondary institution, and
- (f) a volunteer of the post-secondary institution;

“post-secondary institution” means an institution established or continued under one of the following Acts:

- (a) the *College and Institute Act*;
- (b) the *Royal Roads University Act*;
- (c) the *Thompson Rivers University Act*;
- (d) the *University Act*;

“sexual violence” has the meaning given to it in section 2;

“student”, in relation to a post-secondary institution, means a person who is enrolled at that post-secondary institution;

“student society” means a student society as defined in

- (a) the *College and Institute Act*, or
- (b) the *University Act*.

Sexual violence

- 2** (1) For the purposes of this Act, sexual violence includes the following:
- (a) sexual assault;
 - (b) sexual exploitation;
 - (c) sexual harassment;
 - (d) stalking;
 - (e) indecent exposure;
 - (f) voyeurism;
 - (g) the distribution of an intimate image, within the meaning of the *Intimate Images Protection Act*, without the consent of the individual depicted in the image;
 - (h) the attempt to commit an act set out in paragraphs (a) to (g);
 - (i) the threat to commit an act set out in paragraphs (a) to (g).
- (2) Without limiting subsection (1), sexual violence can
- (a) be physical or psychological in nature, and
 - (b) occur in person or by other means, including through the use of technology.

Requirement for sexual violence policy

- 3** (1) A post-secondary institution must establish and implement a sexual violence policy that does all of the following:
- (a) addresses sexual violence, including sexual violence prevention and responses to sexual violence;
 - (b) sets out procedures for the following:
 - (i) responding to a disclosure about a member of the institutional community;
 - (ii) making a formal allegation about a member of the institutional community;
 - (iii) responding to a formal allegation about a member of the institutional community;
 - (c) sets out disciplinary actions or other actions that may be taken;
 - (d) addresses prescribed matters.
- (2) In setting out procedures under section (1) (b), a post-secondary institution must comply with the regulations, if any.
- (3) A post-secondary institution must make the sexual violence policy publicly available on a website maintained by or on behalf of the post-secondary institution.

Objectives

- 4** In establishing, implementing and reviewing a sexual violence policy, a post-secondary institution must pursue the following objectives:
- (a) fostering a culture of consent and accountability at the post-secondary institution;
 - (b) educating the members of the institutional community about the impacts of sexual violence;
 - (c) preventing sexual violence at the post-secondary institution;
 - (d) providing a safe learning and working environment at the post-secondary institution;
 - (e) responding to the needs of persons and groups who are most likely to be disproportionately impacted by sexual violence.

Review of policy

- 5** (1) A post-secondary institution must review its sexual violence policy
- (a) at least once every 3 years, and
 - (b) when directed to do so by the minister.
- (2) After completing a review, a post-secondary institution must make the amendments that the post-secondary institution determines are required based on the review.

Advisory committee

- 6** (1) A post-secondary institution must establish a committee to advise the post-secondary institution in relation to the post-secondary institution's
- (a) sexual violence policy, and
 - (b) efforts to prevent, respond to and raise awareness about sexual violence.
- (2) At least one member of the advisory committee must be a student of the post-secondary institution.
- (3) A post-secondary institution must make reasonable efforts to ensure that the membership of the advisory committee reflects the diversity of persons in British Columbia.

Consultation

- 7** Before a post-secondary institution establishes or reviews a sexual violence policy under section 3 or 5, the post-secondary institution must, in accordance with the regulations, do the following:
- (a) consult with the following persons and groups:
 - (i) students of the post-secondary institution;
 - (ii) the advisory committee of the post-secondary institution;
 - (iii) prescribed persons or prescribed classes of persons;

- (b) make reasonable efforts to consult with the following persons and groups:
 - (i) student societies of the post-secondary institution;
 - (ii) faculty members of the post-secondary institution;
 - (iii) employees of the post-secondary institution;
 - (iv) each trade union representing employees or faculty members of the post-secondary institution;
 - (v) prescribed persons or prescribed classes of persons.

Survey

- 8** (1) The minister may direct a post-secondary institution to conduct a survey for the purpose of assessing the effectiveness of
 - (a) the post-secondary institution's sexual violence policy, and
 - (b) its other efforts to prevent, respond to and raise awareness about sexual violence.
- (2) In directing a post-secondary institution to conduct a survey under subsection (1), the minister may specify the following:
 - (a) who the post-secondary institution must include in the survey;
 - (b) questions that the post-secondary institution must include in the survey;
 - (c) the manner in which the post-secondary institution must conduct the survey;
 - (d) the date by which the post-secondary institution must submit the survey results to the minister.
- (3) If the minister directs a post-secondary institution to conduct a survey under subsection (1), the post-secondary institution must do all of the following:
 - (a) conduct the survey;
 - (b) comply with any matters specified by the minister under subsection (2);
 - (c) submit the survey results to the minister on or before the date, if any, specified by the minister under subsection (2).

Annual report to governing body

- 9** (1) Each year, the president of a post-secondary institution must submit an annual report to the governing body on the implementation of the post-secondary institution's sexual violence policy.
- (2) The annual report must include the following information:
 - (a) a summary of the post-secondary institution's
 - (i) responses to sexual violence, and
 - (ii) efforts to prevent and raise awareness about sexual violence;

- (b) a summary of
 - (i) any consultations conducted under section 7 in relation to the sexual violence policy of a post-secondary institution, and
 - (ii) changes to the sexual violence policy in response to those consultations;
 - (c) prescribed information.
- (3) A post-secondary institution must make annual reports publicly available on a website maintained by or on behalf of the post-secondary institution.

Disclosure of information

- 10** If a person makes a formal allegation about a member of the institutional community, a post-secondary institution may provide information to the person about the following:
- (a) interim measures that the post-secondary institution has taken, or intends to take, in response to the formal allegation;
 - (b) the outcome of the formal allegation, including information about any disciplinary actions or other actions taken.

Training

- 11** A post-secondary institution must make training in relation to sexual violence available to members of the institutional community.

Section 5 of the *Offence Act*

- 12** Section 5 of the *Offence Act* does not apply to this Act or regulations made under this Act.

Regulation-making powers

- 13**
- (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
 - (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
 - (a) respecting any matter for which regulations are contemplated by this Act;
 - (b) for the purposes of section 3 (1) (b), respecting procedures for
 - (i) making a formal allegation, or
 - (ii) responding to a disclosure or formal allegation;
 - (c) for the purposes of section 7, establishing requirements respecting consultation;
 - (d) for the purposes of section 9 (2) (c), respecting
 - (i) information that must be included in an annual report, and

- (ii) standards for information and data
 - (A) collected and used by a post-secondary institution in preventing and responding to sexual violence, and
 - (B) disclosed by the post-secondary institution in an annual report.
- (3) In making a regulation under this Act, the Lieutenant Governor in Council may make different regulations for
 - (a) different post-secondary institutions, sexual violence policies, surveys, persons, matters, circumstances, events or things, and
 - (b) different classes of post-secondary institutions, sexual violence policies, surveys, persons, matters, circumstances, events or things.

Transitional Provision

Transition – first review

- 14** An institution must complete the first review under section 5 (1) (a) by the earlier of the following:
- (a) the prescribed date;
 - (b) 3 years after the date that this Act comes into force.

Repeal

Repeal of *Sexual Violence and Misconduct Policy Act*

- 15** The *Sexual Violence and Misconduct Policy Act*, S.B.C. 2016, c. 23, is repealed.

Consequential Amendment

University Act

- 16** *Section 27 (2) (y) of the University Act, R.S.B.C. 1996, c. 468, is amended by striking out “Sexual Violence and Misconduct Policy Act” and substituting “Sexual Violence Policy Act”.*

Commencement

- 17** This Act comes into force by regulation of the Lieutenant Governor in Council.