

39.01	Sexual Violence	POLICY
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1.0 PURPOSE

- 1.1 The purpose of this policy is to foster an environment in which all members of the College community are safe, secure, and free from Sexual Violence of any form.
- 1.2 Sexual Violence describes any act targeting a person’s sexuality, whether physical or psychological that is committed, threatened or attempted against a person without their Consent. This violence takes different forms including, but not limited to, sexual abuse and sexual assault. Acts of Sexual Violence include unwanted sexual comments, unwanted touching or advances, sexual harassment, stalking, removal of or failure to use a condom during intercourse without Consent, indecent exposure, voyeurism, cyber-sexual harassment, coercion of another person’s sexuality by physical or psychological intimidation, and/or denial of another person’s sexual decision-making rights.
- 1.3 The purpose of this policy is also to state NSCC’s commitment to:
 - a. Address the harmful attitudes and behaviors associated with Sexual Violence by providing awareness, education and related programs that contribute to a safe working and learning environment.
 - b. Assist those members of the College community affected by Sexual Violence by providing access to the College’s counselling services, and access to information regarding supports, medical care and reporting.
 - c. Respect due process in investigations conducted under this policy.
 - d. Ensure that members of the College community who are found to have violated this policy are held accountable.
 - e. Collect and analyze data under this policy excluding personal or identifying information to shape service and future policy and program development.

2.0 SCOPE AND APPLICATION

- 2.1 This policy applies to all members of the College community.
- 2.2 This policy applies to Sexual Violence perpetrated or experienced by a member of the College community:
 - a. Occurring, in whole or in part, on physical College sites;
 - b. Occurring, in whole or in part, in electronic environments where such behavior could have an adverse impact on the reputation of, or experience of, the working or learning environment of the College;

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- c. Occurring, in whole or in part, in the course of employment or studies with the College, including without limitation in the course of work experience as part of an NSCC program;
- d. Occurring, in whole or in part, in the course of participation in College-sponsored activities or programs;
- e. Occurring wholly outside of College property, where such behavior could have an adverse impact on the reputation of, or experience of, the working or learning environment of the College.

- 2.3 The procedures of this policy address how the College will respond to a Disclosure and/or Report of Sexual Violence. This policy shall be read in conjunction with its corresponding procedures.
- 2.4 Where it appears that information received with respect to Sexual Violence falls outside of the application of this policy, or could or should be more appropriately dealt with under another policy, Act, Code, or procedure, the College reserves the right to determine the approach or policy that will be used, or to refer the individual to an appropriate forum.
- 2.5 Nothing in this policy precludes any member of the College community from exercising their rights under a collective agreement, the Nova Scotia Human Rights Act or the Criminal Code of Canada.

3.0 INTERPRETATION

3.1 CENTRAL COLLEGE DEPARTMENT/DIVISION

Refers to the non-campus departments/divisions of the College.

3.2 CONSENT

Is a voluntary, willing, unimpaired and conscious choice and agreement to engage in a specific sexual activity. There is no consent when a person expresses, by words or conduct, a lack of agreement to engage, or continue to engage, in sexual activity. A person who is asleep or unconscious is incapable of consenting to sexual activity. A person may be incapable of consenting to sexual activity when under the influence of alcohol and/or drugs. A person may be incapable of consenting to sexual activity when there is an imbalance of power and/or authority, or when one person is in a position of trust.

3.3 COMPLAINANT

Complainant refers to a member of the College community who, in accordance with this policy and the procedures, makes a Report. A complainant may be a victim/survivor, witness to Sexual Violence, or third party with knowledge of the Sexual Violence.

3.4 DISCLOSE OR DISCLOSURE

Refers to a victim/survivor sharing information in accordance with this policy and the procedures about their experience of Sexual Violence for the purpose of receiving supports from the College.

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3.5 INTERSECTIONALITY

The complex, cumulative way in which the effects of multiple forms of discrimination (such as racism, sexism, and classism) combine, overlap, or intersect especially in the experiences of marginalized individuals or groups.

3.6 INVESTIGATOR

Refers to a person, selected by the Sexual Violence Response Team, who conducts a College investigation under the policy and procedures. An investigator may be an NSCC employee, or an external person engaged by the SVRT.

3.7 COLLEGE COMMUNITY

NSCC students and employees, volunteers, invited guests, those who are in a contractual relationship with the College, College committees, boards, councils, associations, union partners, volunteers and visitors.

3.8 PRINCIPAL

Refers to the principal(s) of the College campus(es) at which a victim/survivor, complainant or respondent is a student, employee or other member of the College Community.

3.9 PROCEDURES

Means the Sexual Violence Disclosure and Reporting Procedures.

3.10 REPORT OR REPORTING

Refers to a complainant sharing information, in accordance with this policy and the procedures, about Sexual Violence perpetrated by a member of the College community against another member of the College community for the purpose of referral to the Sexual Violence Response Team for potential investigation.

3.11 RESPONDENT

Respondent refers to a person who is alleged to have perpetrated Sexual Violence.

3.12 SEXUAL HARASSMENT

Sexual harassment means a course of unwelcome comment or persistent or abusive sexual solicitation or advances directed at an individual by another individual or group who knows, or ought reasonably to know, that this attention is unwelcome; any solicitation or advance which is known, or ought reasonably to be known to be unwelcome, made by an individual who is in the position to confer or deny a benefit; and /or any reprisal or threat of reprisal for refusing to comply with an implied or expressed sexual solicitation or advance.

3.13 SEXUAL VIOLENCE

Describes any act targeting a person’s sexuality, whether physical or psychological that is committed, threatened or attempted against a person without their Consent. This violence takes different forms including, but not limited to, sexual abuse and sexual assault. Acts of Sexual Violence include unwanted sexual comments, unwanted touching or advances, sexual harassment, stalking, removal of or failure to use a condom during intercourse without Consent,

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indecent exposure, voyeurism, cyber-sexual harassment, coercion of another person’s sexuality by physical or psychological intimidation, and/or denial of another person’s sexual decision-making rights.

3.14 VICTIM / SURVIVOR

At NSCC, we recognize that some who have been subjected to Sexual Violence may choose to identify as a survivor. Others may choose to identify as a victim. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify. For the purposes of this policy, the College will reference the victim or survivor as victim/survivor when referring to members of the College community who have been subjected to Sexual Violence.

3.15 Persons holding the following positions may delegate their responsibilities and authority under this Policy and Procedures to another employee or employees of the College:

- a. Director of Human Resources
- b. Director of Student Services
- c. Director of Diversity and Inclusion
- d. Principal
- e. Senior College Leader

References to such positions in this Policy and the Procedures include reference to their delegate(s).

4.0 POLICY

4.1 All members of the College community have a right to work and study in an environment that is free from any form of Sexual Violence. Acts of Sexual Violence violate NSCC's values and principles, and, as such, are prohibited. Violation of this policy shall be grounds for disciplinary action by the College.

4.2 NSCC expects that all interpersonal relationships and interactions will be grounded upon mutual respect, open communication, and clear Consent and that all members of the College community will take an active role in upholding this policy and the inherent dignity of all individuals.

4.3 NSCC recognizes that anyone can experience Sexual Violence, and that Sexual Violence can profoundly affect the emotional, physical and mental wellbeing of individuals and communities. NSCC acknowledges that, while Sexual Violence impacts all members of society, some individuals or groups experience Sexual Violence at higher rates. NSCC will endeavor to incorporate in its approach to addressing Sexual Violence an intersectional and gender inclusive understanding that each person’s experience will be affected by many factors, including but not limited to their sex, gender identity, gender expression, sexual orientation, Indigenous, racial or ethnic background, religion, ability, age, socioeconomic status, or role at the College.

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4.4 NSCC recognizes and respects individuals’ rights, concerns and needs in responding to incidents of Sexual Violence and is committed to providing appropriate supports and responses. When Sexual Violence is Disclosed or Reported to the College in accordance with this policy and its associated procedures, NSCC will respond promptly, with the aim of:

- a. supporting the individuals involved;
- b. assessing the safety of the individuals involved and the safety of any of the campuses or NSCC departments that are involved;
- c. engaging the appropriate response mechanisms;
- d. providing information regarding options for supports, medical care and reporting.

4.5 The College is committed to ensuring that those who Disclose or Report that they have experienced Sexual Violence are listened to and treated with compassion. The College is further committed to responding promptly to Disclosures and Reports, in a manner that is sensitive, consistent, and ensures due process.

4.6 Institutional Commitment to Sexual Violence Prevention and Education

- a. The College will form a committee, the Sexual Violence Prevention and Education Committee, comprised of student representatives, College leaders, student services staff, faculty and experts from NSCC. The Sexual Violence Prevention and Education Committee’s mandate will be to work towards Sexual Violence prevention and education on NSCC campuses.
- b. NSCC may consult and collaborate with individuals and groups with expertise in Sexual Violence prevention both on and off campus to provide relevant education with regard to such topics as it considers appropriate, which may include without limitation:
 - i. Sexual Violence;
 - ii. rape culture and consent culture;
 - iii. alcohol and other intoxicating substances and their impact in sexualized settings;
 - iv. bystander training;
 - v. such other matters as NSCC deems appropriate.

4.7 Options for Disclosure and Reporting

There are options available, both internal and external to the College, to individuals who wish to disclose or report Sexual Violence. When determining the appropriate option(s), NSCC encourages individuals to consider which outcomes may best support their needs or circumstances.

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4.7.1 External Options

- a. A victim/survivor may wish to disclose to an external support, receive specialized medical care, report to the Police or RCMP for the purpose of a criminal investigation, or contact the Nova Scotia Human Rights Commission. Any member of the College community who has been subjected to Sexual Violence is encouraged to report to the police.
- b. External disclosure or reporting is separate from the College’s internal processes outlined below. The terms “Disclose”, “Disclosure”, “Report” and “Reporting” in this policy and the procedures only refer to internal College processes and do not include external disclosures or reports.
- c. Local and Provincial information on supports and resources can be found on the College website, at all Campus Student Services Offices, academic or administrative offices of the College or on the Nova Scotia Government website, Break the Silence <https://breakthesilencens.ca/>.

4.7.2 Internal Options

Under this policy, a person may Disclose or Report an incident of Sexual Violence to the College in accordance with the procedures. The decision to Disclose and the decision to Report are separate decisions with different processes.

a. Disclosure

- i. The victim/survivor may Disclose Sexual Violence in accordance with the procedures. Disclosure will enable a victim/survivor to access support from the College, including counselling services (through the Campus Counsellor, the Student Assistance Program, or the Employee Family Assistance Program, as applicable), and access to information regarding:
 - (a) available external supports and medical care
 - (b) procedures to request reasonable accommodations from the College and/or interim measures, and
 - (c) the Reporting process.
- ii. A Disclosure may relate to Sexual Violence perpetrated by a person who is or is not a member of the College community.
- iii. A victim/survivor can make a Disclosure and choose to Report at a later date.

b. Reporting

A Report may be made by a member of the College community who is a victim/survivor, witness, or third party with knowledge of the Sexual Violence.

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- i. A victim/survivor who makes a Report will be offered access to the same supports as are available through Disclosure. The process to make a Report is outlined in the procedures.

A Report may only be made with respect to Sexual Violence perpetrated by a member of the College community against another member of the College community.

- iii. Reports made under this policy will be addressed by a Sexual Violence Response Team (SVRT) established by the College.

- iv. The SVRT will be chaired by the Director of Diversity and Inclusion.

The Chair of the SVRT will select the membership of the SVRT as the Chair considers appropriate in the circumstances, except that the SVRT will include:

- (a) when a student is involved as a victim/survivor, respondent or complainant: the Director of Student Services and the Principal
- (b) when a campus employee is involved as a victim/survivor, respondent or complainant: the Director of Human Resources and the Principal
- (c) when an employee of a Central College Department/Division, or a non-student member of the College Community, is involved either as a victim/survivor, respondent or complainant: the Director of Human Resources and the Senior College Leader.

- v. In the event that the Director of Human Resources, Director of Student Services, Principal, or Senior College Leader is the victim/survivor, complainant or respondent, they shall be excluded from the SVRT deliberations for that Report.

- vi. The SVRT will have overall responsibility for Reports, including:

- (a) overseeing the College/Campus response to a Report;
- (b) overseeing and advising on supports as required for the victim/survivor;
- (c) determining the policy/procedures through which a Report will be handled;
- (d) determining, in accordance with the procedures, whether to commence an investigation of a Report under this policy;
- (e) overseeing an investigation in accordance with the procedures;
- (f) overseeing the outcome of an investigation in accordance with the procedures, including referral of the investigation findings to appropriate College representatives, including recommendations concerning discipline, mitigation steps or remedial measures.
- (g) maintaining records as required.

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c. Circumstances where the College may Investigate without a Report

- i. If NSCC receives information with respect to Sexual Violence involving a member of the College community, NSCC may be required to or choose to investigate the matter even in the absence of a Report.
- ii. Examples of circumstances when NSCC may conduct an investigation in the absence of a Report may include but are not limited to:
 - (a) Where there is risk to the safety of individuals and/or the broader community;
 - (b) Where multiple allegations have been made about the conduct of the same individual;
 - (c) Where NSCC believes an investigation is required to comply with the College’s legal obligations;
 - (d) Where there is evidence of Sexual Violence in the public realm (such as a video posted on social media).
- iii. Where the College decides to conduct an investigation in the absence of a Report, the College will determine the appropriate procedure for the investigation. NSCC will take reasonable precautions to maintain confidentiality, within the limitations described in 4.9, of all persons involved in an investigation under this policy, including the victim/survivor, complainant, respondent, and witnesses.

d. College Report to Police

- i. The College may be required to or choose to report information that it receives regarding Sexual Violence to the police.
- ii. Examples of circumstances when NSCC may make a report to the police include but are not limited to:
 - (a) Where there is an imminent risk to the safety of individuals and/or the broader community;
 - (b) Where NSCC believes a report to the police is required to comply with the College’s legal obligations.
- iii. If the College makes a report to the police, the College will notify the victim/survivor and provide information regarding support services which may be available to that individual.

4.8 Interim Measures

- a. Interim measures are not intended to be punitive, and the implementation of interim measures is not an indication that an adverse finding has been made, or will be made, against any of the parties.

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- b. The College may implement interim measures to address the following forms of risk when it receives information with respect to Sexual Violence and reasonably believes that such risk exists.
 - i. there is risk to the health, safety or security of the College community, or individual members of the College community,
 - ii. there is risk to the normal or effective operation of all or part of the College,
- c. The SVRT will be responsible for the assessment and imposition of interim measures.
- d. In urgent circumstances, where a Principal or Senior College Leader (as applicable) believes as a result of information received with respect to Sexual Violence that there is imminent risk to the health, safety or security of the College community, or individual members of the College community, a Principal or Senior College Leader (as applicable) may implement temporary safety measures to address this risk in accordance with the College’s safety procedures. In such circumstances, the Principal or Senior College Leader (as applicable) should promptly inform the Director of Diversity and Inclusion, as Chair of the SVRT, of the action taken. The Director, Diversity and Inclusion will convene the SVRT to consider the assessment and imposition of interim measures. The SVRT may continue, remove or amend the temporary safety measures implemented by the Principal or Senior College Leader.
- e. Circumstances in which interim measures may be implemented include but are not limited to when:
 - i. There are reasonable grounds to believe that a respondent’s continued presence on campus poses a significant threat and/or risk to the safety or security of themselves, others or to property;
 - ii. The respondent’s presence on campus could lead to a breach of court imposed restrictions (e.g. release or probation conditions or a peace bond including a non-association order) or where the College is unable to reasonably accommodate the conditions;
 - iii. There are reasonable grounds to believe that there is risk to the normal or effective operation of all or part of the College;
 - iv. There are reasonable grounds to believe that a person’s personal health and wellness are significantly affecting their academic success and/or conduct.

4.9 Confidentiality

- a. NSCC recognizes that confidentiality is important to those who have disclosed Sexual Violence. NSCC will take reasonable precautions to maintain confidentiality, within the limitations described below, of all persons involved in a Disclosure, Report or investigation under this policy, including the victim/survivor, complainant, respondent, and witnesses.

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- b. Where possible, any questions or concerns about confidentiality should be posed to an NSCC representative prior to sharing information with respect to Sexual Violence.
- c. There are limits of confidentiality and NSCC cannot guarantee complete confidentiality. Issues of confidentiality must be balanced against the College’s need to take appropriate action to promote a safe working and learning environment, and to respect due process and the College’s legal obligations. For example, NSCC may disclose information where the College believes:
 - i. confidentiality would inhibit the effective investigation, processing, resolution or referral of Reports or the imposition of disciplinary or remedial action;
 - ii. internal information sharing among College representatives is reasonably necessary, including to promote the safety of members of the College community, to assess the College’s obligations with respect to information received regarding Sexual Violence, to assess or implement interim measures or requests for accommodation, and to facilitate the investigation and decision-making processes;
 - iii. an individual is at imminent risk of self-harm;
 - iv. an individual is at imminent risk of harming another;
 - v. a child or other vulnerable person has been harmed or is at imminent risk of being harmed;
 - vi. disclosure is required under the law.
- d. In certain circumstances, information with respect to Sexual Violence may be shared with a counsellor employed by NSCC or through the Student Assistance Program, or NSCC Employee Family Assistance Program. NSCC recognizes that a counsellor’s professional position carries with it confidentiality obligations, and expects counsellors to follow the professional protocol that governs their behavior and practice. Counsellors are expected to treat information received through a Disclosure as confidential, and only disclose this information in the exceptional circumstances permitted by the counsellor’s professional protocol. In the event of a conflict between the confidentiality provisions of this policy and a counsellor’s professional protocol with respect to disclosure of confidential information, NSCC expects counsellors to comply with their professional protocol.

4.10 Emergency Reporting of Sexual Violence

- a. Sexual Violence can constitute an emergency. Where there is an immediate need for assistance or response, a person should report the matter to the police by calling 911 and/or Campus Security and activate the emergency blue pull station.
- b. Where the emergency blue pull station is activated, First Responders shall take such steps deemed necessary to provide support to the victim/survivor, and will limit enquiries and

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actions to those necessary and proportionate to the circumstances. First Responders are able to provide information relating to the process for making a Disclosure or Report.

4.11 General Provisions

a. Drug and Alcohol Use

The College recognizes that victims/survivors may be hesitant to Disclose or Report Sexual Violence in cases where they have been drinking or were using drugs at the time the Sexual Violence took place. A victim/survivor acting in good faith who makes a Disclosure or Report will not be subject to College proceedings for violation of NSCC policies related to drug and alcohol use at the time that the Sexual Violence took place.

b. No Appeal

Decisions made under this policy are final and there is no right of appeal. A person who is dissatisfied with the outcome reached under this policy may seek options through any applicable provisions of the Collective Agreement, the Nova Scotia Human Rights Act or in any other proceedings available in law.

c. Abuse of Process

Reports or Disclosures under the policy determined to be frivolous, vexatious, mischievous, or an abuse of process, shall be considered to be violations of this policy and grounds for disciplinary action by the College. Such cases will be referred to appropriate College personnel and addressed under the provisions of the Student Code of Conduct or the Employee Code of Conduct or another applicable College policy.

d. Records Storage

- i. Through the course of the Report process, all records shall be securely and confidentially stored.
- ii. At the conclusion of the Report process, all records shall be securely and confidentially stored.
- iii. No documentation of Sexual Violence, including any materials resulting from a formal complaint process will be placed on the complainant or respondent's official employment file or student record. In the event that the conclusion of an investigation is that Sexual Violence did occur and where disciplinary action was taken, the letter of discipline is the only documentation that will appear on the respondent's official employment file or student record.

e. Statistical Data

Data, excluding any personal or identifying information, regarding patterns and trends in Reports under this policy may be aggregated, analyzed and shared within the College for the purpose of maintaining a safe working and learning environment.

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f. Retaliation

No member of the College community shall retaliate, engage in reprisals or threaten a person who

- i. has made a Disclosure or Report under this policy,
 - ii. participated in any process under this policy, or
 - iii. has associated with a person who has made a Disclosure or Report or participated in a process under this policy.
- g.** Violation of **section 4.11.f.** shall be grounds for disciplinary action by the College. Such cases will be referred to appropriate College personnel and addressed under the provisions of the Student Code of Conduct or the Employee Code of Conduct or another applicable College policy.

5.0 POLICY SUPPORTS

<p>REVIEW OF POLICY The policy and procedures will be reviewed by the College in accordance with the:</p> <p>78.01 Policy Development, Renewal and Approval Policy</p> <p>PROCEDURES 39.02 Sexual Violence Disclosure and Reporting Procedures</p> <p>APPENDICES Appendix 1 Province Wide Resources</p>	<p>RELATED POLICIES 33.01 Student Code of Conduct 42.01 Employee Code of Conduct 41.01 Respectful Workplace and Learning Environment Policy (Harassment and Discrimination) 42.31 Safe Disclosure policy 73.21 Violence Prevention policy</p> <p>COLLECTIVE AGREEMENTS Faculty Professional Support Operational Support</p> <p>RELATED ACTS Nova Scotia Human Rights Act Criminal Code of Canada</p>
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