

The Vancoderm Academy Sexual Misconduct Policy

Page 1

VANCODERM ACADEMY		ID#04528
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Sexual Misconduct Policy	1/24/2020	
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Definitions:

Sexual Misconduct: To constitute Sexual Misconduct, behaviour may be a single serious incident or may be repeated or persistent behaviour. Sexual Misconduct is any form of sexual contact without a person's consent, including the threat of sexual contact without consent. Sexual Misconduct may include one or more of the following:

- Sexual assault
- Sexual exploitation
- Sexual harassment
- Criminal harassment (Stalking)
- Indecent exposure
- Voyeurism
- The distribution of a sexually explicit photograph or video of a person to one or more persons other than the person in the photograph or video without the consent of the person in the photograph or video and with the intent to distress the person in the photograph or video
- The attempt to commit an act of sexual misconduct
- The threat to commit an act of sexual misconduct

Sexual Harassment: Sexual harassment refers to unwanted communications or actions that are sexual in nature, and are offensive, intimidating or humiliating. It can take many forms including verbal, written or visual. Sexual harassment may include any of or all of the following conditions:

- Conduct or comment of a sexual nature made by a person who knows or ought to reasonably know that such conduct or comment is unwanted or unwelcome
- Expressed or implied promise or a reward for complying with a request of a sexual nature

- Actual reprisal or an expressed or implied threat of reprisal or refusal to comply with a request of a sexual nature
- Actual denial of an opportunity or an expressed or implied threat of denial of opportunity for refusal to comply with such a request
- The conduct or comment is intended to, or has the effect of, creating an intimidating or hostile environment
- Differential treatment of a former or current intimate partner where a power relationship exists
- Examples of sexual harassment include, but are not limited, to the following
 - Remarks or innuendos regarding an individual's appearance, clothing or sexual life
 - Unwelcome questions or sharing a personal information regarding a person's marital status, sexuality, sexual activity, sexual orientation, or gender/transgender issues
 - Persistent, unwelcome sexual flirtations, advances, propositions, invitations or requests
 - Sexually suggestive, obscene or degrading comments or gestures
 - Displaying or circulating sexually graphic or derogatory pictures or written materials
 - Use of online activities such as email, text messaging or social networking to initiate or participate in any of the above behaviours
 - Leering, ogling or sexually oriented gestures
 - Inappropriate and unnecessary touching

Sexual Assault: Sexual assault is any form of sexual contact that occurs without any freely given consent. Sexual assault includes any form sexual contact where consent has not been given (i.e. non-consensual touching that is sexual in nature, forced penetration). Sexual assault includes date rape or acquaintance rape, which happens between acquaintances, friends or between people who are dating. There are three levels of sexual assault in the Criminal Code of Canada.

- Level 1: any forced sexual contact without bodily harm
- Level 2: forced sexual contact causing or threatening to cause bodily harm or using a weapon (imitation or real)
- Level 3: forced sexual contact that causes aggravated bodily harm or endangers the life of the victim or others

Criminal Harassment (Stalking): Criminal harassment, which includes stalking, is prohibited by the Criminal Code of Canada. Criminal harassment prohibits deliberate conduct that is psychologically harmful to others. For stalking to be criminal harassment, here's what's required:

A person does one or more of the following things:

- repeatedly follow you, or anyone you know
- repeatedly communicate with you, or anyone you know, directly or indirectly
- repeatedly watch you, or anyone you know, or lurk around your home, workplace, or any other place you happen to be
- engage in any threatening conduct directed at you or a member of your family
- The person knows that their conduct is harassing you or they are reckless about whether their conduct is harassing you. Reckless means they know their conduct may harass you, but they don't care
- The person's conduct causes you to reasonably fear for your safety or the safety of someone you know. Your fear has to be reasonable. The person does not have to realize that their conduct is scaring you for it to be criminal harassment.

A person can be stalking even if they don't physically hurt anyone or damage any property. The law is designed to protect psychological, emotional, and physical safety. Stalking may start with conduct that seems more annoying than dangerous. Often, the conduct is legal and even socially acceptable, if it's just an isolated incident. But when it's repeated, it may scare the victim. Conduct such as following someone, or sending gifts or letters, may become intimidating if done continually and against the person's wishes.

Sexual Exploitation: Sexual exploitation is the sexual abuse of children and youth through the exchange of sex or sexual acts for drugs, food, shelter, protection, other basics of life, and/or money. Sexual exploitation includes involving children and youth in creating pornography and sexually explicit websites.

Disclosure and Reporting Options

Complainants have the following disclosure and reporting options, available both on and off campus, and may choose any of these options or any combination of the available options.

- **No Report:** the Complainant may wish to disclose sexual violence in order to seek emotional support, medical support, or advocacy, but may not want to report to police or other campus authorities. Subject to certain limited exceptions, this decision should be respected and the Complainant should still be offered support services.
- **Report to Police:** the Complainant may wish to make a police statement, which would generally be followed by a criminal investigation. An appointed campus

employee can accompany the Complainant if requested or the Academy can contact a community-based victim support worker to support and accompany the Complainant.

- Third Party Report to Police via Community Victim Service Agency: the Complainant may wish to make an anonymous Third Party Report through a community-based victim support worker; reports are sent to police by an intermediary agency and provide detailed information about the incident and the Respondent, but do not include the name or contact information of the Complainant. A Third Party Report is not in and of itself a police investigation; it is an option of last resort for the Complainant who would not otherwise provide information to the police but who may want to access support and let the police know of a sexual predator in order to protect others.

- Formal Complaint to The Vancoderm Academy: the Complainant may wish to make a formal report to the Academy, precipitating the Vancoderm Academy Sexual Misconduct process if either the Complainant or Respondent is a student, staff, visitor or guest to the Academy. The Complaint Procedure process is outlined below.

Complaint Procedure

Initial Consultation: General Director

A member of the the Vancoderm Academy community who feels he or she has experienced or witnessed Sexual Misconduct and is considering a complaint process is encouraged to discuss the matter with the General Director. The General Director will engage in a confidential discussion regarding the Complainant's options, and provide the Complainant with information and guidance regarding:

- Whether the behaviour(s) in question may fall within the definition(s) of Sexual Misconduct under this Policy
- Possible procedures and options available to the Complainant under this Policy or under alternate Policy or process (as appropriate)
- Where a Complainant wishes to pursue a formal complaint, he/she will be referred to the appropriate individual as provided in the Policy
- Available support for the Complainant both on and off campus

The General Director does not determine whether behaviours are Sexual Misconduct; the General Director only confirms that behaviours as described by the Complainant may constitute Sexual Misconduct. Only a Formal Investigation can determine whether Sexual Misconduct has taken place.

The General Director works with the Complainant, providing options for the Complainant to deal with presented behaviours.

The General Director will maintain confidentiality of this discussion. However, if the Complainant claims that the Sexual Misconduct involves violence, the General Director must report the situation to the General Manager who will investigate and may encourage the Complainant to report the situation to the police, following one of the reporting options set out above. A Complainant is not precluded from reporting to police if they have reported the Complaint to the The Vancoderm Academy.

If the Complainant, after initial consultation, wishes to proceed to a formal complaint of Sexual Misconduct under the Policy, the General Director may provide advice on the necessary elements for a Request for Formal Investigation.

Informal Resolution

If a Complainant wishes to pursue further actions after an initial consultation with the General Director and the Misconduct and/or harassment behaviours are subject to process under this policy, he/she may first seek Informal Resolution. Informal Resolution is not mandatory and may not be appropriate for all manner of Sexual Misconduct. The Complainant may choose to proceed immediately to Formal Resolution.

If the behaviours are student-to-student and classroom based, the Complainant may request that the Instructor or General Director intervene to address the Misconduct or harassment behaviours and take action as appropriate to the situation.

Where Misconduct or harassment behaviours are not student-to-student/ classroom based or faculty intervention is not appropriate or possible, the Complainant may seek Informal Resolution through the General Manager. When a General Manager receives a verbal or written complaint of Sexual Misconduct, he/she will follow-up on such allegations in a timely manner including informing the Respondent of the Complaint and providing a copy of this Policy. Such follow-up may involve attempting to facilitate a mutually agreed-to resolution between the Complainant and Respondent, applying appropriate The Vancoderm Academy Policy or procedures, and/or taking appropriate preventative, disciplinary or remedial measures. Disciplinary actions may include but are not limited to:

- Warning or reprimand
- Referral to educational or psychological services;
- Restricted/no access to specific areas of the The Vancoderm Academy or to a specific campus
- Suspension/expulsion from specific classes and/or from the The Vancoderm Academy

Where the complaint is against a General Director the request for Informal Resolution would be directed to a General Manager. Where the complaint is against a General

Manager the request for Informal Resolution would be directed to the President Where the complaint is against an Executive Vice President the request for Informal Resolution would be directed to the The Vancoderm Academy President. Where the complaint is against the The Vancoderm Academy President the request for Informal Resolution would be directed to the Chair of the CIBT Education Group.

Where such complaints involve a The Vancoderm Academy employee, the General Director will consult with the General Manager.

Where the General Manager determines that the Investigation of the allegations of Sexual Misconduct may result in serious consequences for the The Vancoderm Academy, he/she will consult with the President to determine if the complaint resolution process should move directly to a Formal Investigation.

1. **Formal Investigation**

Where the Complainant wishes to pursue Formal Investigation and both Complainant and Respondent are students, the Complainant must submit a written and signed request for Formal Investigation, to the General Manager. Where the complaint involves a The Vancoderm Academy employee as Complainant or Respondent, a written and signed request for Formal Investigation must be submitted to the General Director. Where the complaint is against a General Director the request for Formal Investigation would be directed to a General Manager. Where the complaint is against a General Manager the request for Formal Investigation would be directed to the President Where the complaint is against an Executive Vice President the request for Formal Investigation would be directed to the The Vancoderm Academy President. Where the complaint is against the The Vancoderm Academy President the request for Formal Investigation would be directed to the Chair of the CIBT Education Group.

Where the Complaint is against the General Director, General Manager or President, the Request for Formal Investigation will be submitted to the The Vancoderm Academy President who will name a designate to fulfill the role of initiating an investigation as described below.

☐ The General Director, General Manager or President will review the merits of any complaint that falls under the provisions of this Policy and determine that it falls under the provisions of this Policy and make arrangements for Formal Investigation, including whether an Internal or External Investigator should be appointed.

☐ Where the complaint moves to Formal Investigation under the Vancoderm Academy Policy, an Investigator will be appointed. Every effort will be made to do this within five (5) working days of the complaint being received by the General Manager, President or the Vancoderm Academy President.

The appointed Investigator will ensure that both the Complainant and the Respondent are aware that a Formal Investigation has commenced, and that each has a copy of the Sexual Violence and Sexual Misconduct Policy.

The Investigator will receive information from the Complainant, the Respondent, and any other individuals whom the Investigator believes may have information relevant to the complaint.

Information may be received through written documentation, and/or interviews. The Investigator will ensure that both the Complainant and the Respondent are aware of the positions of the other, and of any allegations made against them, and are given a reasonable opportunity to respond.

Where an Investigator conducts interviews, the Complainant and the Respondent may request that a support person be present. This person will act as an observer/support and will not participate in the proceedings. An interpreter for either or both the Complainant and Respondent (where either or both parties have English as a second language) may be provided by the Investigator.

After completion of the investigation, and within ten working days, the Investigator will complete a written report, including a copy of the written complaint and findings of fact, and submit the report to the The Vancoderm Academy President. The report will state a positive or null Finding of Misconduct/Harassment based on the balance of probabilities and may include recommendations for resolution of the complaint and/or for remedial or disciplinary action.

The The Vancoderm Academy reserves the right to initiate an independent investigation of Sexual Misconduct if sufficient cause has been demonstrated to warrant such action.

2. Formal Decision

After reviewing the Report of the Investigator, the The Vancoderm Academy President will make decision(s) on findings of Sexual Misconduct and on appropriate actions in the circumstances.

The President's decision will be rendered, in writing, to the Complainant and Respondent as soon as possible but in any case within ten (10) working days of the receipt of the report of the Investigation. The President will provide a summary of the findings of the Investigator with his/her decision to the Complainant and the Respondent.

Where the President finds that Sexual Misconduct has occurred, disciplinary decisions may include, but are not limited to:

- Warning or reprimand
- Referral to educational or psychological services

- Restricted/no access to specific areas of the The Vancoderm Academy or to a specific campus
- Suspension/expulsion from specific classes and/or from the The Vancoderm Academy
- Disciplinary action up to, and including, termination of employment
- Where the President finds that Sexual Misconduct has occurred, the The Vancoderm Academy will endeavour to protect the Complainant from any subsequent harassment, discrimination or reprisal, within the The Vancoderm Academy's jurisdiction.
- Where the President finds that the complaint was frivolous, vexatious or vindictive in nature, he/she may take appropriate disciplinary action against the Complainant.
- A copy of the Investigative Report and the President's decisions will be placed in a confidential file maintained by the Office of the President for a period of five years.
- In addition to disciplinary outcomes the President may require further action including workshops and/or mediation for the employees/students in the learning or workplace environment affected by the complaint and/or investigation, changes to The Vancoderm Academy practices/procedures that may be deemed to be discriminatory, or other proactive steps to ameliorate existing conditions.