



SEXUAL MISCONDUCT

GOVERNANCE POLICY

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1.0 PRINCIPLES

- 1.1. The South Shore Regional Centre for Education (SSRCE) believes every staff member must demonstrate, be committed to and be responsible for providing a safe, respectful and positive learning environment that is free from sexual misconduct for each student. While this policy includes all relevant *Criminal Code* offences as well as Section 25 of the *Child and Family Services Act*, such legal requirements are only the bare minimum protections towards children. The SSRCE fully believes and supports a far greater duty of care towards the students within SSRCE. Each and every employee owes a duty of care and concern for the best interests and well-being of each and every student within the SSRCE.
- 1.2. No employee will engage in any activities that may be considered sexual misconduct towards a student.
- 1.3. All employees have an obligation to come forward and report reasonable suspicions of sexual misconduct between a staff member and a student. The SSRCE has a corresponding responsibility to provide reasonable safeguards for the protection of any such individual who comes forward with a reasonable suspicion within the confines of providing a fair and valid investigation. However, where an individual knowingly makes an accusation which they know to be false, the SSRCE provides a measured and appropriate response within its authority.

2.0 DEFINITIONS

- 2.1. **“Employee”** is a staff member hired by SSRCE in any capacity (e.g. permanent, regular, term, temporary, substitute, casual, secondment). **This includes student teachers and persons on work placement.** The status and/or characteristics of the employee (such as gender, age, position, location of work, employment status, etc.) is not relevant in determining whether or not sexual misconduct has occurred nor the appropriate remedial response to such sexual misconduct.
- 2.2. **“Student”** is a current student of the SSRCE or one who has left SSRCE for any reason (including graduation) within the past twelve (12) months. The characteristics of the student (gender, age, location, real or perceived consent, real or perceived initiation or provocation, history of sexual relations, physical appearances, real or apparent parental approval, etc.) is not relevant in determining whether or not sexual misconduct occurred nor the appropriate remedial response to such sexual misconduct.
- 2.3. **“Volunteer(s)”** - any person(s) volunteering within the SSRCE who is not a student and is not a paid employee of SSRCE. The status and/or characteristics of the volunteer (such as gender, age, position, location of volunteering, etc.) is not relevant in determining whether or not sexual misconduct has occurred nor the appropriate remedial response to such sexual misconduct.

- 2.4. **“Sexual Misconduct”** is any interaction between an employee and a student that is sexualized in nature including but not limited to:
- 2.4.1. **Sexual relations** including physical sexual activity that includes but does not necessarily end up in intercourse. It involves touching another person in their private parts.
 - 2.4.2. **Sexual contact** including intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.
 - 2.4.3. **Sexual abuse** including the use, persuasion, inducement, enticement, or coercion to engage in, or assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose of producing any visual depiction of such conduct.
 - 2.4.4. **Sexual harassment** including when a person is subject to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature to such an extent that it creates an abusive environment. Sexual harassment may include touching, feeling, groping and/or repeated unpleasant, degrading and/or sexist remarks.
 - 2.4.5. **Sexual conduct** including remarks, jokes, innuendo, leering, gestures, taunts.
 - 2.4.6. **Sexual communications** including verbal, written, and electronic.
 - 2.4.7. **Materials of a sexual nature** including pictorial, electronic material or written material involving student(s) and/or distributed to student(s).
 - 2.4.8. **Establishing, attempting to establish or participating in an intimate, personal, or emotional relationship** even where there is no overt sexual content, where a reasonable person could conclude that such actions could reasonably be construed as an attempt to develop into a sexual or sexualized relationship including but not limited to: letters, texts, emails, messages, phone calls, or conversations; gifts; private meetings; and dates, etc.

3.0 AUTHORIZATION

The Regional Executive Director is authorized to issue procedures in support of this policy.

SEXUAL MISCONDUCT

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1.0 PROCESS FOR INVESTIGATION OF MISCONDUCT

- 1.1. Where an employee who, upon investigation, is found to:
 - 1.1.1. have had an explicit sexual relationship with an individual who is known or ought reasonably to have been known by the employee to be a student, there is a strong presumption that such employee will be subject to the disciplinary action of discharge.
 - 1.1.2. have committed a form of sexual misconduct other than explicit sexual relations with a student, such employee is subject to remedial action that includes disciplinary action up to and including discharge.
 - 1.1.3. Every complaint brought forward shall be investigated in a timely manner subject to constraints by outside agencies or legal requirements. The Director of Human Resources, or designate, shall gather information regarding the incident from relevant sources and make a determination as to whether the policy has been violated.
- 1.2. The Director of Human Resources shall notify all appropriate professional bodies or agencies, in writing, of the complaint. This may include, but is not limited to, legal authorities, the Department of Family and Community Services and Teachers Certification.
- 1.3. When internal investigations are to be conducted into allegations of sexual misconduct by staff, the matters that should be addressed include:
 - 1.3.1. the relative roles and joint participation of the Family and Children's Service Department (FCS) and the police in the conduction of the investigation of sexual abuse. Protocols may provide that the police have prime responsibility for any child protection investigation and for the protection of the child;
 - 1.3.2. the factors affecting the timing of the investigation and the initial interviews;
 - 1.3.3. the factors affecting the locations of the interviews particularly those relating to when FCS or police can or should interview a student on school property;
 - 1.3.4. the assignment of the investigators with socialized training and skills respecting child sexual abuse cases;
 - 1.3.5. special needs of students with disabilities;
 - 1.3.6. procedures for videotaping and retention and access to video tapes;
 - 1.3.7. medical examinations of the student;
 - 1.3.8. the obligation of the SSRCE to contact the FCS or police if the student – complainant transfers to another school or Centre for Education;
 - 1.3.9. the exchange of information between the FCS and/or police and the Director of Human Resources or designate(s). This may involve the designation of another staff member as liaison;
 - 1.3.10. when a support person will be permitted to remain with a student/complainant during any interviews;

- 1.3.11. when a suspected staff member should be notified that an allegation has been made against them;
- 1.3.12. at what stage of the investigation the suspected party should be given an opportunity to address the allegations and what information should be provided to that party and/or their counsel, to enable the suspected party or counsel to address the allegations.
- 1.4. Any investigation conducted by the Director of Human Resources or designate(s) should be informed by the desirability of:
 - 1.4.1. Avoiding or reducing the trauma to the student through unnecessary or inappropriate interviewing;
 - 1.4.2. Respecting the confidentiality and privacy interests of all affected parties, to the extent possible;
 - 1.4.3. Ensuring fairness to the school staff member or volunteer against whom a complaint has been made;
 - 1.4.4. Ensuring an accurate determination, free from stereotypical notions about sexual misconduct.
- 1.5. The staff member's reassignment or employment status shall be re-visited:
 - 1.5.1. Upon completion of any FCS or police investigation;
 - 1.5.2. After any criminal charges are laid;
 - 1.5.3. After any criminal case is completed;
 - 1.5.4. Upon completion of any internal investigation;
 - 1.5.5. Upon withdrawal of the charge, discharge following an initial inquiry, stay of charge or acquittal.
- 1.6. The Director of Human Resources or designate(s) will make a determination as to whether sexual misconduct has occurred and/or whether or not any criminal charges have resulted in findings of guilt.
- 1.7. The Office of the Regional Executive Director shall develop protocols that shall create a communication plan specific to an individual case, subsequent to the disclosures of alleged sexual misconduct by staff members or volunteers. Such a plan shall address the following matters:
 - 1.7.1. What information will be communicated, when and by whom;
 - 1.7.2. Respect for privacy rights of the affected parties, to the extent possible;
 - 1.7.3. The need for factual accuracy and fairness to all affected parties; and
 - 1.7.4. The desirability of affirming and supporting a student who discloses sexual misconduct, while maintaining the presumption of innocence.

2.0 RESPONSIBILITIES

It shall be the responsibility of the Regional Executive Director to ensure these administrative procedures are followed.