

Policy Title:	Sexual Violence, Assault and Harassment		
Category:	<input checked="" type="checkbox"/> Institutional - Board	<input type="checkbox"/> Academic - Administrative	
	<input type="checkbox"/> Institutional - Administrative	<input type="checkbox"/> Employment - Administrative	
Approved by:	<input checked="" type="checkbox"/> Board	<input type="checkbox"/> President	
Date approved:	May 3, 2019	Effective date:	May 3, 2019
Policy Sponsor:	Board Governance Committee Chair and President	Date last reviewed:	October 28, 2021
Date of Mandatory Review (expiry date)	May 2023	Date of last revision of Procedures	May 3, 2019

1 POLICY

1. Sexual violence, harassment and assault are unacceptable and will not be tolerated.
2. Members of the CMCC community who are reported to have committed acts of sexual violence, assault and/or harassment may be held concurrently accountable under the authority of the Criminal Code of Canada should the complainant wish to pursue action in this matter. CMCC will defer internal proceedings relating to such complaints pending the outcome of criminal proceedings. The institution will continue to provide supports and accommodations to both the complainant and the respondent in accordance with this policy.
3. CMCC shall customarily articulate its commitment to safety and inclusion in the workplace and academic environment in all of its contracts and agreements with third-party service providers, contractors, partners and collaborators.
4. Individuals or organizations with whom CMCC has a contract or agreement who conduct themselves in a manner that undermines the institution's commitment to safety and inclusion, and/or that jeopardizes the actual or perceived physical or psychological safety of CMCC students and/or employees, will be held accountable in accordance with relevant institutional policy.
5. Individuals with no formal affiliation with CMCC who are reported to have committed acts of sexual violence, assault and/or harassment against a member of the CMCC community will be held accountable under the Criminal Code of Canada, should the complainant wish to pursue action in this manner. In these cases, complainants are still entitled to access supports through CMCC.
6. Incidents of sexual violence, assault and/or harassment will be formally reported only with the complainant's consent, and to the authorities of the complainant's choosing, unless otherwise required by CMCC. In such circumstances, the minimum amount of information needed to allow such concerns to be addressed, or such requirements to be met, will be disclosed. Such circumstances of required disclosure by CMCC include:
 - a. an individual is at risk of harm to self or to others;
 - b. there is a risk to the safety of the CMCC and/or the broader community;

- c. disclosure is required by law; for instance, suspected abuse of someone under the age of 16, or to comply with the Occupational Health & Safety Act, or with the Ontario Human Rights Code;
 - d. evidence of the disclosed incident of sexual violence, assault and/or harassment is available in the public realm (e.g., video or information shared publicly on social media or other).
7. The Complainant has the right to determine what and how much information they choose to disclose, and the extent to which they wish to participate in any formal investigation. CMCC recognizes that some individuals may be hesitant to disclose or report sexual violence, assault and/or harassment in cases where they have been drinking or were using drugs at the time the sexual violence, assault and/or harassment took place. The complainant or community member acting in good faith who discloses or reports sexual violence, assault and/or harassment will not be subject to actions for violations of CMCC policies related to drug and alcohol use at the time that the sexual violence, assault and/or harassment took place.
8. In circumstances where reporting is required by CMCC, the complainant and individuals affected by the incident of sexual violence, assault and/or harassment will be fully informed and supported at every step of the process, and have the right not to participate in any investigation that may occur.
9. Students and employees who experienced sexual violence, assault and/or harassment, and/or are those affected by it, will be provided with support and accommodations through the appropriate institutional office or external service provider, should their experience with sexual violence, assault and/or harassment negatively impact their ability to fully participate in their academic program or employment responsibilities. Such support will be provided to students and employees regardless of when, where or by whom they experienced an incident of sexual violence, assault and/or harassment.
10. Individuals who experienced sexual violence, assault and/or harassment will have the opportunity to obtain whatever information they believe is necessary in order for them to make an informed choice about whether or not to proceed with further reporting, a formal complaint, investigation, adjudication or alternate dispute resolution. CMCC is committed to ensuring that information is broadly communicated to all campus constituents, and that such information is readily available through individuals identified as policy leads in this policy.
11. Supports and/or academic and workplace accommodations provided by CMCC will be individualized to the complainant's needs, and based upon their preferences relating to continued participation in academic and workplace activity. In providing accommodations, CMCC will make every effort to do so in a manner that protects the integrity of all parties, but prioritizes the complainant's right to full participation in the workplace and/or academic program. Such accommodations may be revised and adapted based upon the complainant's needs should they evolve throughout the complaint resolution process.
12. The complainant who seeks accommodations that result in an interruption to enrollment in their academic program shall not be financially or academically penalized for such interruptions.

13. The complainant only need to disclose their experience in order to seek support, and will not be required or pressured to make a formal report or complaint.
14. CMCC will provide the complainant with the option to meet with individuals of a preferred gender for the purpose of preliminary reporting, formal reporting, and/or investigation.
15. CMCC reserves the right to implement interim measures during the investigation and decision making process, where it is necessary to protect the safety of the parties and/or the community. The assessment for the need for interim measures will be undertaken jointly by both policy leads, and a decision to implement interim measures will be made by either the Vice President, Administration & Finance or the Vice President, Academic. Interim measures could include but are not limited to: alternate work scheduling or location, alternate academic scheduling, no contact orders, and campus access restrictions. In cases where interim measures are required, CMCC will make every effort to do so in a manner that protects the integrity of all parties, but prioritizes the complainant's right to full participation in the workplace/academic program.
16. Members of the CMCC community who are reported to have committed acts of sexual violence, assault and/or harassment will have the opportunity to respond to the allegations against them through a process that balances both the institution's need to hold individuals accountable and its duty of procedural fairness to all parties involved.
17. Investigations into complaints of sexual violence, assault and/or harassment shall be conducted by a third-party investigator/investigators on behalf of CMCC. The policy leads will support the complaint resolution and investigation processes. The investigator(s) shall be assigned by the President. Should the respondent in the matter be the President or a member of the Board of Governors, the President or Chair of the Board of Governors, as appropriate, will assign the investigator.
18. Proceedings undertaken by CMCC to investigate and respond to a complaint of sexual violence, assault and/or harassment will be conducted in a manner that is timely, transparent to the parties involved, and in a manner that is procedurally, substantively and relationally fair. However, given the very complex nature of incidents of sexual violence, assault and/or harassment, CMCC reserves the right to make concessions relating to the timelines and/or procedures in order to minimize further trauma to the complainant or those affected by the incident of sexual violence, assault and/or harassment. If both parties do not want to meet face to face, the proceedings can be recorded.
19. Through the processes of preliminary and formal reporting, and proceedings relating to investigation, hearing and adjudication, both the complainant and the respondent are entitled to be accompanied by a support person. Support persons may include a friend, family member, union representative, or other. The support person is not entitled to speak on behalf of or make decisions for either party at any stage in the process. Should the complainant not have access to a support person, CMCC will make the necessary arrangements for such a support person to be provided.
20. Retaliation or reprisals against anyone who has made a complaint, or provided information relating to a complaint of sexual violence, assault and/or harassment is prohibited. Anyone who engages in reprisals or threats of reprisals may be subject to disciplinary action.

21. CMCC will maintain annual anonymized statistics on incidents of sexual violence, assault and/or harassment, including disclosures, preliminary reports and formal reports for the purpose of ongoing community education and any legislated reporting that may be required. This data is protected and may not be requested for the purposes of institutional or individual research.
22. Every three years, CMCC will undertake review of this policy, and its related academic and administrative programs and services to ensure that they leverage opportunities to educate members of the community on issues relating to sexual violence, assault and/or harassment as a means to prevent its occurrence. Education and awareness includes, but is not limited to, programs and curriculum relating to consent and rape culture, survivor support and trauma awareness, and sexual violence, assault and/or harassment reporting and complaint resolution.
23. CMCC is committed to ensuring that individuals involved in the administrative and complaint resolution processes associated with this policy are educated in matters relating to sexual violence, assault, trauma and/or harassment. Individuals with investigative or decision-making responsibilities will undergo related training, and renew such training as deemed appropriate by CMCC.

2 PURPOSE

To define behaviour that constitutes the serious offences of sexual violence, assault and harassment, explain the necessity for action to be taken, and provide procedural guidelines so that survivors know how to access support, understand options and implications of undertaking a complaint resolution process, and potential outcomes.

3 SCOPE

All CMCC students, employees, members of the CMCC community (including members of the Board of Governors and its committees) and individuals, or individuals representing organizations with contractual relationships with CMCC.

4 INFORMATION AND COMPLIANCE PLANS (not a comprehensive list)

CMCC is committed to fostering a physically and emotionally safe and respectful learning and working environment for students, staff and faculty. In addressing matters relating to sexual violence, assault and harassment, CMCC is equally committed to doing so in a manner that respects all parties involved, and in a manner that is trauma-informed and, survivor-centered.

CMCC acknowledges that sexual violence, assault and harassment are crimes of power that impact people of all genders, but do not do so equally. Such crimes are typically perpetrated toward women, and the experience may be particularly impactful for women for whom their identities intersect with Indigenous identity, race, disability, gender identity, gender expression, and sexual orientation. As such, the contexts in which incidents of sexual violence, assault and harassment occur are often complex, and the survivor's experience of that context is equally complex.

CMCC is, therefore, committed to ensuring that its response protocols, prevention and education efforts, and provision of supports are anti-oppressive and trauma informed.

- Criminal Code of Canada
- International Student Program Requirements, 105
- Occupational Health and Safety Act (Schedule 4)(OHSA)
- Occupational Health and Safety Amendment Act (Violence and Harassment in the Workplace)
- Ontario Human Rights Code (“Policy on preventing sexual and gender-based harassment”)
- Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)

5 RELATED POLICIES (not a comprehensive list)

- Academic Accommodation for Students with Disabilities
- Access to CMCC
- Access to CMCC Clinics
- Accessibility – Integrated Regulations: Employment Standards
- Code of Conduct - Employees
- Collective Agreement, CMCC & CUPE Local 4773
- Deferral of Academic Requirements
- Discipline - Employees
- Discipline - Students
- Health & Safety
- Leaves
- Privacy
- Program Completion – Graduate Studies Chiropractic Residency Programs
- Program Completion – Undergraduate
- Student Code of Conduct: Regulated Practice
- Withdrawal and Refund
- Workplace Violence and Harassment

6 DEFINITIONS

Complainant is an individual who has been subjected to sexual violence, assault and/or harassment.

Confidentiality: Ensuring confidentiality is critical to creating an environment and culture where individuals feel safe to disclose, and to seek support and accommodation. CMCC is committed to ensuring such within the scope of this policy, and will do so using every reasonable effort to balance confidentiality with its legal responsibility to provide a work and study environment free from sexual violence, assault and/or harassment. CMCC does so in accordance with associated legislation and the provisions of applicable employee collective agreements. Personal information will be shared only on an as needed basis so as to ensure the integrity of parties involved and to not do further harm or trauma to the survivor.

Consent is defined as the voluntary agreement of an individual to engage in sexual activity. Conduct short of a voluntary agreement to engage in sexual activity does not constitute consent (Criminal Code of Canada, Subsection 273.1(1)). No consent is obtained where:

- the agreement is expressed by the words or conduct of a person other than the complainant
- the complainant is incapable of consenting to the activity

- the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority
- the complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or
- where the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity (Criminal Code of Canada, Subsection 273.1(2)).

The decision maker for this policy is the Vice President, Administration & Finance (alternate: Vice President, Academic)

Disclosure is when someone chooses to inform a CMCC community member about an incident where they were subjected to sexual violence, assault and/or harassment or when they became aware of such an incident. This disclosure may then lead to preliminary and/or formal reporting and potential subsequent action under the policy, or it may not proceed any further, should the complainant wish to not pursue the matter formally.

Duty of fairness: CMCC has a duty to be fair with respect to the process by which investigations and decisions are taken, that may result in findings of sexual violence, assault and/or harassment, violation of CMCC policy, and potentially the Criminal Code of Canada. Such findings could potentially impose serious consequences against a member of the CMCC community who has engaged in such behavior. As such, the following elements of procedural fairness will be upheld to the greatest possible extent within the full scope of this policy without doing further trauma or harm to the complainant:

- The respondent has the opportunity to know specifically the allegations and evidence against them, and must be afforded the opportunity to respond to such a complaint in writing prior to formal proceedings being undertaken.
- Both the complainant and the respondent have the right to appear in person and make oral presentations to both an investigator and the decision maker, and ask questions with respect to evidence presented before a decision is made.
- Either party can choose to not exercise the right to appear and make oral presentations, and not have that negatively impact the evidence.

First responder is the person to whom the complainant initially disclosed. This could be a friend, or an employee. They may be significantly affected by the disclosure of sexual violence, assault and/or harassment and may also be in need of support.

Formal report/complaint is a report by an individual who knows of an incident of sexual violence, assault and/or harassment for the purpose of requesting that an investigation be undertaken and that the matter be adjudicated within the scope of CMCC policy, or through authorities under the Criminal Code of Canada.

Policy leads for students: Director, Student Affairs (alternate: Registrar).

Policy leads for employees: Director, Human Resources & Employee Engagement (alternate: Human Resources, Team Lead).

Preliminary report is the report by an individual who knows of an incident of sexual violence, assault and/or harassment for the purpose of obtaining information relating to supports,

procedural options and possible outcomes. The individual receiving the preliminary report will provide detailed information and ensure that the complainant understands complaint resolution options, what to expect for all parties, supports available through CMCC and through external organizations.

Reprisals are any act of retaliation that occurs because an individual has complained or provided information about an incident of sexual violence, harassment and/or assault. Reprisal also includes, but is not limited to, intentionally pressuring a person to ignore or not report such an incident, and/or intentionally pressuring a person to lie or provide less than full cooperation with an investigation of a complaint under this policy.

Respondent is an individual who has been alleged to have perpetrated sexual violence, assault and/or harassment.

Risk of harm to self or others: Individuals who have experienced trauma are often at an increased risk of harm to self (e.g., threat of physical harm or suicide) or to others (e.g., threat of physical violence). The assessment of risk to harm to self or others is undertaken by an individual who is trained to assess such a threat, and makes a determination of the individual's risk level based upon the extent to which:

- the individual articulates thoughts or actions with intentions to harm
- the individual demonstrates levels of problems coping with current functioning
- levels of supports are available to the individual
- the individual's history of trauma and harm ideation
- the individual's attitude toward and history of treatment and support.

Sexual assault describes any kind of sexual contact without mutual consent. It can include unwanted kissing, fondling, oral or anal sex, intercourse, or other forms of penetration, or any other unwanted act of a sexual nature.

Sexual harassment is defined as a course of unwanted remarks, behaviours, or communications of a sexually oriented nature and/or a course of unwanted remarks, behaviours or communications based on sex, sexual orientation, gender identity or gender expression where the person responsible for the remarks, behaviours or communications knows or ought reasonably to know that these are unwelcome.

Sexual harassment also includes making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the student and/or employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment may consist of unwanted attention of a sexually oriented nature such as personal questions about one's sex life, persistent requests for a "date," or unwelcome remarks about someone's hair, body shape, etc. Sexual harassment may also consist of unwelcome remarks based on gender which are not of a sexual nature but which are demeaning, such as derogatory gender based jokes or comments.

Sexual violence describes any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature that is committed, threatened or attempted against a person without the person's consent. This includes, but is not limited to, sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, sexual

exploitation, degrading sexual imagery, distribution of sexual images or video of a community member without their consent, and cyber harassment or cyber stalking of a sexual nature.

A third party is an individual who has become aware of and reported an incident covered by this policy.

New Policy Approved (date):

February 23, 2018 (interim) – Administrative

Policy Revision History (dates):

June 16, 2018 – Board

December 7, 2018 (interim) - Board Executive

May 3, 2019 - Board

-----**END OF POLICY**-----

7 PROCEDURES

1. Preliminary Report

- a. Students who wish to consider making a report of sexual violence, assault and/or harassment may do so to the Director, Student Affairs.
 - i. In cases where the complainant is not comfortable making the complaint to the Director, Student Affairs, they may do so to the Registrar.
- b. Employees and members of the Board of Governors who wish to consider making a report of sexual violence, assault and/or harassment may do so to the Director, Human Resources and Employee Engagement.
 - i. In cases where the complainant is not comfortable making the complaint to the Director, Human Resources and Employee Engagement, they may do so to the Human Resources, Team Lead.
 - ii. If the employee making the preliminary report is a member of a bargaining unit with which CMCC has a collective bargaining agreement, the employee is entitled to be accompanied by a bargaining unit representative of their choosing.
- c. The individual taking the preliminary report will provide detailed information and ensure that the complainant understands complaint resolution options, what to expect for all parties, and supports available through CMCC and through external organizations.
- d. The individual taking the preliminary report may continue to be a CMCC-designated support contact should the complainant wish to pursue their complaint further within the scope of this policy or through other complaint resolution avenues.
- e. CMCC students or employees who receive disclosures of sexual violence, assault and/or harassment from another CMCC student or employee may make a third party disclosure and consult with Student Services or Human Resources staff respectively on how to provide support and advice to the complainant. The third party discloser will be provided information on supports, services, accommodations, interim measures, and the procedures under this policy.

2. Formal Report and Investigation

- a. Individuals who wish to make a formal report/complaint must do so in writing. The individual may do so to the policy lead via e-mail or letter, or may request an in-person meeting to make the report.
 - i. Students who wish to make a formal report/complaint may do so to the Director, Student Affairs (or to the alternate: Registrar).
 - ii. Employees and members of the Board of Governors who wish to make a formal report/complaint may do so to the Director, Human Resources & Employee Engagement (or to the alternate: Human Resources, Team Lead).
 - iii. Where there is a conflict of interest, lack of availability, or other reason for which the policy lead as designated in Section 2.a.i. or 2.a.ii above is not appropriate, the other individual identified in those sections shall serve as an alternate.
- b. Written reports are customarily provided by the complainant but may be filed by a third party. It is only in exceptional circumstances where the individual receiving the formal complaint would transcribe the written report for the complainant.
- c. Written reports should include:
 - i. name of the complainant or third party filing the complaint
 - ii. name of the respondent (if known)
 - iii. a description of the particulars including but not limited to date(s), time and location where the incident(s) occurred
 - iv. names of potential witnesses
 - v. copies of supporting documents when available (e.g., emails, social media postings)
- d. The complainant is entitled and encouraged to bring a support person to any meetings during which the formal report is taken. This support person may be the individual who received the preliminary report, or another person of the individual's choosing.
 - i. The support person may not speak on behalf of, or provide information specific to the report.
 - ii. If the employee making the preliminary report is a member of a bargaining unit with which CMCC has a collective bargaining agreement, the employee is entitled to be accompanied by a bargaining unit representative of their choosing.
- e. The policy lead will not advocate for any individual or group, and cannot take sides on a complaint. Their role is to listen, clarify details, provide information regarding process, and assess appropriate next steps, in all stages of the process.
- f. Once a formal report is received by the policy lead, the policy lead will undertake an assessment of the appropriate next steps in responding to the complaint, including:
 - i. determining whether a report/complaint has been made through any other internal or external process as well as through this policy
 - ii. a determination of the jurisdiction of CMCC in proceeding with the report/complaint
 - iii. a determination of whether the incident reported is appropriately addressed under this policy, and/or should be referred for review under a different CMCC policy
 - iv. a determination of whether the complainant is interested in alternate resolution, as opposed to the completion of an investigation and decision making process
 - v. a consultation with the appropriate offices in the assessment of the need for interim measures while the complaint is being investigated and decided upon

- vi. an assessment of the estimated time required to conduct the investigation and provide a report to the decision maker
 - vii. an assessment of any limitations associated with investigator conflict of interest, and/or institutional capacity to conduct a fair and confidential investigation, and whether an external investigator will need to be retained
 - viii. a determination of whether additional fact-finding is required, and an approach to conduct such prior to finalizing a decision on proceeding with an investigation
- g. Once the complaint has been assessed, the policy lead will consult with the President and apprise them of the general nature of the complaint and, if required, appoint an investigator. The policy lead will then confirm in writing to the complainant, if applicable, whether an investigation will be undertaken and if so a Notice of Investigation will be provided to the parties involved. Customarily, no more than 10 business days should lapse before a decision to proceed with an investigation is reached and a Notice of Investigation is generated.
- h. The Notice of Investigation will include the following information:
- i. the name and contact information of the investigator(s)
 - ii. a Formal Report
 - iii. confirmation of the right of the complainant to a support person or representative during the investigation
 - iv. any interim measures that will be in place during the investigation
 - v. a link to the electronic copy of this policy
 - vi. the name and contact information for a CMCC person designated to provide support to each party
 - vii. the role of the investigator(s)
 - viii. next steps and estimated time frame for the investigator(s)
 - ix. the name and title of the decision maker on the complaint
- i. Within two business days of the date of the Notice of the Investigation, both the complainant and the respondent shall confirm receipt of the notification and state any perceived conflicts of interest or objections.
- j. Should a conflict of interest be declared relating to the decision maker, an alternate shall be appointed in accordance with Section 3 of the procedures. Such a request will be reviewed by the policy lead and the President.
- k. Prior to the first investigation meeting, the policy lead will provide an opportunity for either party to address any questions they have about the process, to explain their rights in the process, and to determine the outcome, if applicable, that the complainant is seeking.
- l. Within five days of receiving the Notice of Investigation, the respondent must respond, in writing to the allegations made against them. Such a response will be provided to the complainant, at which point the complainant may decide to continue the proceedings or withdraw the complaint.
- m. The policy lead will then provide copies of all related documentation to the investigator(s) in a timely manner.
- n. The investigator(s) will develop a plan identifying the issues in the case, who will be interviewed, which questions will be posed, and which documents/exhibits will be

requested for review. The investigator conducts all interviews, including those with the complainant and respondent and any witnesses. Interviews may be recorded with the interviewee's written consent for the purpose of facilitating accuracy in the investigator's record. Any such recordings will be retained for the duration of the investigation, and then destroyed before submission of the investigation report. Written confirmation of the destruction of such recordings will be provided to the interviewee.

- o. The investigator(s) will meet with all parties separately, and may need to meet with each party several times over the course of the investigation. The complainant and respondent will have the opportunity to provide the investigator with additional information, documents, exhibits, names of witnesses or other submissions or evidence that they believe are relevant to the complaint.
- p. The investigator(s) will ensure that both the complainant and the respondent have had a full opportunity to review and respond to all material aspects of the allegations, and the evidence upon which the investigator will rely.
- q. At any point during the investigation process, the complainant may request alternative resolution or withdraw their complaint, prior to the provision of the Investigation Report to the Vice-President, Administration & Finance.
- r. The investigation report will include not only the findings of the investigation, but also copies of all statements, exhibits and associated appendices.
- s. Nothing contained in this policy shall derogate from the authority of CMCC to deal with allegations of workplace violence and/or harassment without the necessity of a complainant.

3. Decision Making

- a. Decisions on complaints of sexual violence, assault and/or harassment within the scope of this policy shall be made by the Vice-President, Administration & Finance.
- b. Should the Vice-President, Administration & Finance be unable to make such a decision, either by conflict of interest, lack of availability, or other reason, the secondary decision maker shall be the Vice-President, Academic.
- c. Should the respondent in the matter be a Vice-President, Dean, Associate Vice-President, or other member of the Executive Leadership Team, the decision maker shall be the President. Should the respondent in the matter be the President or a member of the Board of Governors, or other person for whom there is a conflict of interest, the President or Chair of the Board of Governors, as appropriate, will determine the appropriate individual to be the decision maker.
- d. Within 14 days of completing the investigation, the Investigator will provide a written investigation report to the decision maker for review and a decision.
- e. A request by either party to receive a copy of the investigation report will be subject to CMCC's Privacy policy and applicable legislation.

- f. The Investigator will notify both the complainant and the respondent of the date of submission of the investigation report to the decision maker.
- g. The decision maker will review the final report and may request an opportunity to meet with and ask any questions of the investigator.
- h. The decision maker will ensure that both the complainant and the respondent are afforded an opportunity to make in-person oral submissions prior to rendering a decision. Any such meetings will be transcribed by the policy lead so as to document any new evidence presented that does not appear in the investigation report. Should new information be presented by any party during such meetings, the complainant and respondent will be given respective opportunity to respond to or question new information, in person or in writing, before a decision is rendered. The complainant will not be required to appear before the decision maker in the presence of the respondent.
- i. Within 10 business days of reviewing the investigation report and completing all requested meetings with parties involved and reviewing all additional written submissions or questions, the decision maker will render a written decision and where applicable, assign an appropriate sanction or remedy, and therein identify the timeline for such and the associated CMCC person responsible for monitoring compliance.
- j. In determining a sanction or remedy, the decision maker may consider the following:
 - i. the sanction or remedy sought by the complainant
 - ii. the principle of progressive discipline and CMCC's role as an educational institution
 - iii. the regulated professional context of CMCC's academic programs
 - iv. the nature and the severity of the incident
 - v. any other relevant factors.
- k. The written decision to the respondent will provide a summary of the investigation results, the decision and the reasons for the decision, and details of any applicable sanctions.
- l. The complainant will be informed in writing of the results of the investigation, and of any corrective action that has been taken, or that will be taken as a result of the investigation.

4. Appeals

Either the complainant or the respondent may appeal the written decision by making an appeal in writing. During the period under which an appeal is subject to review, the terms and conditions of the decision will remain in force.

- a. A written appeal must be submitted to the relevant policy lead within 10 business days of the date of the original decision. The appeal must include both an explanation for the request and the alternative sought.
- b. When the Individual appealing the decision is an employee whose employment is governed under a collective agreement, the right to appeal the decision is through the grievance and arbitration process of the applicable collective agreement.

- c. In reviewing an appeal outside of the collective agreement, appeals will be considered on the following grounds:
 - i. the claim of a substantial procedural error in the application of the policy
 - ii. the presentation of substantive new evidence that could not have reasonably been presented earlier
 - iii. the claim that the decision maker's finding is inconsistent with the evidence
the claim that the remedies/sanctions are not reasonable.
- d. Appeals of the decision maker will be reviewed by the President.
- e. If the individual is appealing a decision made by the President, the appeal of the decision is to the Executive Committee of the Board of Governors, with the addition of one voting member who shall be external to the CMCC community and who has the appropriate training to participate in an appeal of this nature.
- f. If an appeal is submitted by one party, other parties to the case will be notified of such and will be invited to make a written submission for consideration when the appeal is under review. In reviewing the appeal, the person making a decision on the appeal may review the investigation file, the original findings and remedies/sanctions as determined by the decision maker, and any other relevant documents or information. The person making the decision on the appeal may also interview the parties. A decision on the appeal will be provided, in writing, within 15 business days of the date the appeal was received by the policy lead.

5. Confidentiality & Reporting of Statistics

- a. Records relating to complaints and investigations will be held in perpetuity, or as required by law, by the policy lead responsible for the complaint.
- b. Counselling records will be retained in accordance with the policies and procedures regulating the practice of the counsellor.
- c. In cases where the respondent is found guilty of the allegation(s) against them, a copy of the written decision will be retained in the corporate files, and accordingly:
 - i. If the respondent is a student, a copy will be retained on the student's academic file.
 - ii. If the respondent is an employee, a copy will be retained on the employee's record. If the employee is a member of a bargaining unit with which CMCC has a collective bargaining agreement, the retention period may be limited by the collective agreement.
- d. Individuals serving as policy leads and who are in receipt of a preliminary report of sexual violence, assault and/or harassment that has not been brought forward for a formal report will provide the following information to the Vice President, Administration & Finance for the purposes of annual statistical reporting:
 - i. nature of incident (e.g., harassment and/or assault)
 - ii. classification of complainant (e.g., student, staff, faculty, contractor/subcontractor, volunteer)
 - iii. classification of respondent (e.g., student, staff, faculty, contractor/subcontractor, member of the Board of Governors, volunteer)
 - iv. location of incident (e.g., on campus, off-campus location with formal affiliation with CMCC, off-campus with no CMCC jurisdiction)

- e. Annual statistics will be aggregated by the Vice President, Administration & Finance and reported to the President in an anonymized and aggregate fashion according to:
 - i. number of preliminary reports received;
 - ii. number of formal reports received;
 - iii. number of complaints adjudicated by a decision maker;
 - iv. number of complaints resolved through alternate dispute resolution;
 - v. number of decisions that were subject to appeal.

New Procedure Approved (date):

February 23, 2018 (interim) – Administration

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June 16, 2018 – Board

September 13, 2018

December 7, 2018 (interim) - Board Executive

May 3, 2019 - Board

8 ATTACHMENTS

None