

Sexual Violence & Misconduct Policy



Policy Number:

Authority:

Approval Date:

1. Purpose

Carey Hall (“Carey” or “we”) is committed to providing excellent academic, residential, and spiritual experiences for all members of Carey’s working, learning and living community. It is understood that all individuals who choose to formally associate with Carey will conduct themselves in a manner that is consistent with Biblical principles of the Christian faith. The choice to participate in Carey’s community entails a commitment to maintain a personal lifestyle and interpersonal interactions marked by integrity, honesty, kindness, mutual respect, sensitivity to the needs and concerns of others, on campus and in all settings where the Carey Community is embodied.

To that end, Carey is committed to providing a safe, respectful, and inclusive environment where Sexual Violence or Misconduct is not tolerated. Carey strives to prevent Sexual Violence or Misconduct and to respond effectively and in a timely manner if and when incidents do occur. This policy provides a process for Disclosing and filing a Report with respect to incidents of Sexual Violence or Misconduct and outlines Carey’s responsibilities and procedures for responding to incidents of Sexual Violence or Misconduct and providing assistance and support to individuals who has experienced Sexual Violence or Misconduct, whether or not they have filed a Report.

All individuals who Disclose or file a Report regarding an experience of Sexual Violence or Misconduct will be:

- treated with compassion, dignity, and respect;
- respected in their choice as to whether they wish to Disclose or file a Report regarding their experience;
- provided timely assistance with safety planning;
- provided timely information about available support services and resources;
- provided timely discussion of appropriate Accommodations;
- advised of the options for addressing an incident of Sexual Violence or Misconduct, and the limits to confidentiality associated with each option; and
- given a clear explanation of the investigation and decision process if the decide to file a Report, a procedurally fair and unbiased process, and regular updates on the status of the process.

All individuals who are alleged to have violated this policy can expect from Carey:

- to be treated with compassion, dignity, and respect;
- to be advised of the options available to them; and

- if a Report is filed, a clear explanation of the investigation and decision process, a procedurally fair and unbiased process, and regular updates on the status of the process.

Every Member of the Carey Community has an obligation to understand this policy and how it applies to their employment, educational, accommodation or business dealings at Carey.

2. Scope

This policy and its associated procedures, apply to Carey and all Members of the Carey Community. This policy applies to all Carey Related Activity whether conducted on Carey's properties or at another location.

This policy may not apply to Disclosures and Reports of Sexual Violence or Misconduct in the following circumstances:

- where legislation requires that another process be followed instead of the procedure described in this policy; or
- where the alleged Sexual Violence or Misconduct may be dealt with more appropriately in another forum, such as in accordance with the policies and procedures of another organization.

Individuals may also elect to pursue allegations of Sexual Harassment under Carey's *Discrimination, Bullying and Harassment Prevention Policy* or contact the BC Human Rights Tribunal to make a complaint of Sexual Harassment under anti-discrimination legislation.

This policy is not intended to supersede or interfere with prevailing laws. Anyone who has experienced Sexual Violence or Misconduct has the right to pursue criminal or civil legal avenues whether or not they choose to proceed under this policy. Carey reserves the right to initiate an investigation and/or to inform relevant law enforcement regarding an incident of Sexual Violence or Misconduct, and/or to take any other action it feels is reasonable and appropriate, if Carey reasonably believes that the safety of a Member of the Carey Community and/or the broader community is at risk.

3. Definitions & Interpretation

"Accommodations" means the provision by Carey of reasonable and appropriate academic, workplace or other measures that (a) are provided to Students, Employees or Associates affected by Sexual Violence or Misconduct; (b) are designed to meet that person's needs resulting from an incident of Sexual Violence or Misconduct; and (c) do not infringe on the rights of others.

"Associates" means Carey's staff, faculty, visiting scholars, consultants and contractors to Carey, volunteers, management, members of the Board of Administration and Senate; and any other persons appointed or engaged by Carey to perform duties or functions on its behalf.

"Carey" means Carey Hall and includes Carey Theological College and Carey Centre and all faculties, offices and departments related thereto.

"Carey Community Support Contact" means a Student, Employee or Associate who receives a Disclosure from a Survivor.

"Carey Related Activity" includes conduct that is connected to Carey, including conduct that: (a) refers or relates to Carey, its activities, or its Students, Employees or Associates in their status as Students, Employees or Associates of Carey; (b) occurs on, or in connection with, Carey's properties (including real properties, buildings and facilities or other property owned by Carey; (c) occurs at or in connection with other residential or theological colleges or University of British Columbia owned or affiliated student accommodation or facilities; (d) occurs using, or is facilitated by, Carey's information and communications

technology (ICT) resources or other Carey equipment; (e) occurs during, or relates to, the performance of duties for Carey; (f) occurs during, or in connection to, any Carey related function or event (whether sanctioned or organized by Carey or not) or when representing Carey in any capacity; (g) occurs during any event run by or affiliated with any Carey related organizations, clubs or societies (whether sanctioned or organized by Carey or not).

“Complainant” means an individual who experiences an alleged incident of Sexual Violence or Misconduct or Retaliation, and seeks resolution by filing a Report in accordance with this policy.

“Designated Carey Administrator” refers to the person or persons responsible for overseeing the proper implementation, administration and enforcement of this policy being, subject to Section 9 of this policy: (a) with respect to members of the Board of Administration and Senate, the Board Chairperson; (b) with respect to Students, Employees, Visitors, volunteers and consultants and contractors to Carey and all other parties, the Vice President Operations & Registrar.

“Disclose”, “Disclosure”, or “Disclosing” means the sharing of information by a Survivor regarding an incident of Sexual Violence or Misconduct or any form of Retaliation with any Carey Community Support which, for greater certainty, does not initiate an investigation unless a Report is made.

“Employee” means an employee of Carey, including a casual employee or dependent contractor.

“Indecent Exposure” means the non-consensual exposure of one’s genitals to another person for a sexual purpose.

“Interim Measures” means any temporary provisions that may be placed on any Respondent which are designed to limit contact between the Complainant and Respondent while an investigation is conducted, and are not intended to be punitive in nature.

“Malicious Complaint” refers to when a person has made a a malicious, frivolous or vexatious or bad faith complaint of Sexual Violence or Misconduct or Retaliation that such person knows is untrue provided, however, that submitting a complaint based on a mistake, a misunderstanding, or a misinterpretation, or where the complaint cannot be proven does not itself constitute a Malicious Complaint.

“Members of the Carey Community” means Students, Employees, Associates and Visitors.

“Non-consensual Exhibition” means 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.

“Report” or “Reporting” refers, for the purpose of this policy, to the marking a formal statement to the Designated Carey Administrator, or their designate, regarding an incident of Sexual Violence or Misconduct or any form of Retaliation with the intention of initiating an investigation by Carey into an incident of Sexual Violence or Misconduct or any form of Retaliation.

“Respondent” means an individual who is alleged to be responsible for committing Sexual Violence or Misconduct or Retaliation in a Disclosure or Report.

“Retaliation” is any adverse action taken against an individual for: (a) invoking this policy in good faith whether on behalf of oneself or another individual; (b) participating or cooperating in any investigation under this policy; or (c) associating with a person who has invoked this policy or participated in these procedures.

“Sexual Assault” mean any non-consensual or unwanted sexual contact, including but not limited to, oral contact (kissing), touching, genital contact, tampering with contraceptives, penetration, and/or any

threatening behavior that gives a person reasonable cause to believe that they are at risk of any kind of sexual violence.

“Sexual Exploitation” mean touching, directly or indirectly, with a part of the body or with an object, any part of the body of a young person for a sexual purpose or inviting, counselling, or inciting a young person to touch, directly or indirectly, with a part of the body or with an object, the body of another person.

“Sexual Harassment” means (a) engaging in a course of conduct of a gender related or sexual nature by a person who knows or ought reasonably to know that the behaviour is unwanted or unwelcome; and (b) which leads to or implies employment or academic consequences of the person or persons harassed; interferes with a person’s or persons’ participation in the employment, educational, accommodation or business activities of Carey; or creates an intimidating, hostile or offensive working, living or educational environment.

“Sexual Violence or Misconduct” refers to any action or behaviour that satisfies one or more of the following: (a) Sexual Assault; (b) Sexual Exploitation; (c) Sexual Harassment; (d) Stalking; (e) Indecent Exposure; (f) Voyeurism; (g) Non-consensual Exhibition; (h) the attempt to commit an act of any of the foregoing; or (i) the threat to commit an act of any of the foregoing.

“Stalking” means actions by a person that cause another person to reasonably fear for their safety or the safety of anyone known to them and includes (a) repeatedly following another person or anyone known by that other person from place to place; (b) repeatedly communicating directly or indirectly with another person or anyone known by that other person; (c) watching another person’s home, commute, work location, classroom locations, or anywhere else a person known by that other person happens to be; and/or (d) engaging in threatening conduct directed at another person or any member of that person’s family.

“Student” includes: (a) a person who has been admitted as either a resident student of Carey or a theological student of Carey, for the duration of such admission; and (b) any other person resident in Carey including residents of Carey’s long-term rental accommodations.

“Survivor” means a Member of the Carey Community who has experienced Sexual Violence or Misconduct. Survivors who choose to Report may also be referred to as Complainants.

“Visitor” means any guest, invitee or visitor to Carey’s properties (including real properties, buildings and facilities) or other property owned by Carey or to a function or event authorized or organized by Carey.

“Voyeurism” means the surreptitious observation or recording of a person who is in circumstances that give them a reasonable expectation of privacy, where the person could reasonably be expected to be nude or engaging in sexual activity; or where the observation or recording is done for a sexual purpose.

This policy is not intended to interfere with ordinary social or personal relationships among Members of Carey Community. This policy will be interpreted, administered, and applied in conformity with Carey’s Statement of Faith and the principles of procedural fairness and natural justice and all matters arising under this policy will be dealt with in a fair, unbiased and timely manner.

4. Freedom from Sexual Violence or Misconduct, Malicious Complaints or Retaliation

4.1. Every Member of the Carey Community has the right to a respectful learning, living and working environment and the right to enforce his or her rights under this policy. Carey prohibits any form of Sexual Violence or Misconduct in Carey Related Activity. Every Member of the Carey Community has a responsibility to uphold this policy and to ensure that the learning, living and working environment is free from Sexual Violence or Misconduct by:

- promoting respect for the dignity of all Members of the Carey Community;
- not engaging in Sexual Violence or Misconduct;
- conducting themselves in a manner that demonstrates respect for others, and that honours diversity and inclusion in any Carey Related Activity;
- providing a compassionate, respectful, and reassuring response to a Survivor who chooses to Disclose an incidence of Sexual Violence or Misconduct;
- participating fully and in good faith in any formal Report of Sexual Violence or Misconduct, investigation, or resolution process where they have been identified as having potentially relevant information;
- respecting the rights to personal dignity, privacy, and confidentiality pertaining to this policy; and
- participating in education and training opportunities aimed at maintaining and promoting a respectful learning, living and working environment.

4.2. A Survivor has the option to make a Disclosure or to file a Report. A Disclosure does not trigger an investigation, but allows a Carey Community Support to provide support and resources to the Survivor in confidence. While there is no time limit to an individual Disclosing or Reporting Sexual Violence or Misconduct or accessing support, Carey may not have jurisdiction to investigate a Report if the parties involved are no longer affiliated with Carey or the lapse of time may make it impossible to investigate.

4.3. If a Survivor makes a Disclosure or Report of Sexual Violence or Misconduct by a Visitor or other person over whom Carey has no jurisdiction, Carey may seek assistance from another organization or to refer the complaint to an external agency for resolution.

5. Protection from Retaliation and Malicious Complaints

Carey supports the prompt and timely disclosure, and if applicable, investigation and resolution of complaints of Sexual Violence or Misconduct. However, Carey Hall will not tolerate incidents of Retaliation or Malicious Complaints. Any Member of the Carey Community to have been determined to have engaged in Retaliation or to have made a Malicious Complaint may be subject to remedial measures and/or disciplinary action, based on the nature and severity of the violation: (a) with respect to Employees and Associates, up to and including termination of their respective relationship with Carey in accordance with the applicable terms and conditions of their appointment, employment agreement, contract or other agreement; or (b) with respect to Students, up to and including expulsion from Carey or any Carey residence in accordance with Carey's Code of Conduct or other academic policies. Any such determination of Retaliation or a Malicious Complaint will be recorded in the applicable personnel file and may be used in any investigation of a subsequent complaint.

6. Confidentiality

6.1. Carey recognizes the confidentiality interests and privacy rights of all parties involved in an investigation under this policy will use its best efforts to protect personal information in accordance with the privacy protection provisions of applicable privacy legislation and Carey's *Personal Information Protection Policy*, subject to the exceptions thereunder.

6.2. Carey may disclose information relating to allegations of Sexual Violence or Misconduct, Retaliation or a Malicious Complaint in certain circumstances, including but not limited to where: (a) necessary to ensure the requirements of procedural fairness are met; (b) the sharing of personal

information is necessary for the protection of the health or safety of any individual; (c) there are reasonable grounds to believe that any Member of the Carey Community or public may be at significant risk of harm based on the information provided; (d) the sharing of personal information is required or authorized by law; or (e) the person the information is about has consented to the release of the personal information. In the circumstances described above, Carey may do one or both of the following:

- initiate an investigation in which case the individual who Disclosed may choose not to participate in the investigation; and/or
- notify third parties, such as the police, WorkSafeBC, or child protection authorities.

6.3. All persons involved in an investigation under this policy are required to keep any Disclosure, Report and information relating to the investigation confidential, and are not to disclose the allegation contained in any Disclosure, Report or information revealed to them through the investigation to others, except as may be expressly permitted or as required by law or in order to obtain support or advice from: (a) their immediate family members; (b) a qualified counsellor or psychologist; (c) their lawyer; (d) the police; (e) the BC Human Rights Tribunal.

6.4. A breach of confidentiality may result in remedial measures and/or disciplinary action, based on the nature and severity of the violation: (a) with respect to Employees and Associates, up to and including termination of their respective relationship with Carey in accordance with the applicable terms and conditions of their appointment, employment agreement, contract or other agreement; or (b) with respect to Students, up to and including expulsion from Carey or any Carey residence in accordance with Carey's Code of Conduct or other academic policies.

7. Disclosure Procedure

7.1. A Survivor may choose to Disclose an incident of Sexual Violence or Misconduct to any Carey Community Support Contact of their choice. A Survivor of Sexual Violence or Misconduct usually makes a Disclosure when they need emotional support from a person they trust. A Disclosure does not trigger an investigation, but allows a Carey Community Support to provide support and resources to the Survivor in confidence. It is not the role of the person who receives the Disclosure to initiate an investigation or implement any Accommodations and/or Interim Measures.

7.2. If a Carey Community Support Contact receives a Disclosure of Sexual Violence, they should:

- focus on listening, giving support, and connecting the Survivor with resources to meet their immediate needs (e.g. immediate family members or a qualified counsellor or psychologist if they have been given express consent to do so);
- recognize that experiencing and Disclosing Sexual Violence or Misconduct can be traumatic and the ability to recall the events may be limited;
- advise Survivors of this policy and the procedures set out herein, including the right to make a formal Report and the additional resource options respect the Survivor's right to choose the services they feel are most appropriate and to decide whether to Report to Carey and/or contact police; and
- except as provided in Paragraph 6.2, not disclose information to others without the express consent of the Survivor.

Carey Community Support Contacts who receive a Disclosure should provide a compassionate, respectful, and reassuring response to a Survivor who chooses to Disclose.

7.3. To the greatest extent possible, Carey will respect a Survivor's choice not to make a Report and will keep the Disclosure confidential. Information will be shared with Carey strictly on a "need-to-know" basis and except in circumstances outline in Paragraph 6.2 the Survivor's wishes and confidentiality will be prioritized. Carey Community Support Contacts who require support about how to respond to a Disclosure may contact the Vice President Operations & Registrar at their email address.

8. Report Procedure

8.1. Any Member of the Carey Community may make a Report about Sexual Violence or Misconduct that falls within the scope of this policy to the applicable Designated Carey Administrator in order to: (a) initiate an investigation into allegations of Sexual Violence or Misconduct, or (b) with the consent of the Survivor, initiate an informal resolution to a complaint of Sexual Violence or Misconduct.

8.2. Survivors may request assistance from a support person, including their Carey Community Support Contact, in Reporting Sexual Misconduct or Violence. Individuals may elect the support person of their choice, regardless of whether they have a relationship with Carey and so long as this role does not place the support person in a conflict of interest.

8.3. A person who is not directly involved with an incident of Sexual Violence or Misconduct may make a Report on behalf of, and with the consent of, a Survivor and a person who witnessed an incident of Sexual Violence or Misconduct may make a Report provided, however, that Carey may be unable to conduct an investigation if the Survivor does not wish to participate in the process.

8.4. Carey will respond promptly to all Reports of Sexual Violence or Misconduct made under this policy by:

- conducting an initial review of the allegation to determine whether the incident falls within the scope of this policy, and if so, to coordinate and oversee any internal investigation;
- if applicable and only with the consent of the Survivor, facilitating any investigation by law enforcement;
- if necessary, conducting a risk assessment;
- if applicable and only with the consent of the Survivor and Respondent, initiating an informal resolution to a complaint of Sexual Violence or Misconduct
- if necessary, initiating an investigation into allegations of Sexual Violence or Misconduct in accordance with this policy.

8.5. Where appropriate to do so, Carey may put Interim Measures and/or Accommodations into place pending the disposition of the complaint. All such measures are to be non-punitive in nature and seek to protect the safety of all parties involved and to protect the integrity of the investigation process. The need for Interim Measures will be determined on a case-by-case basis by the Designated Carey Administrator in consultation with the President of Carey taking into account the nature of the allegations and the circumstances of each situation. The provision of Accommodations and/or use of Interim Measures in no way determine the Respondent's culpability. Any Interim Measures implemented will be designed to have the least disruptive impact on the Respondent. When the incident involves police or other internal or external investigations, Interim Measures may remain in effect until all relevant investigations are concluded.

8.6. Carey may offer a Survivor opportunities to resolve a matter informally without resorting to an investigation, or before an investigation has begun or is completed. No person is required to attempt to

resolve the issue informally. Otherwise the Designated Carey Administrator in consultation with the President of Carey will take on the role of investigator. In the event the Designated Carey Administrator has a conflict of interest, an impartial and appropriately qualified investigator will be appointed. The investigator will be provided with a copy of the Report and the terms of reference for the investigation. The investigator may be an employee of Carey or an external investigator and, where reasonably possible, the investigator should be a person who has had no prior dealings with the Survivor or Respondent.

8.7. An investigation of a Report will commence as soon as reasonably possible following the determination that the allegation contained in the Report falls within the scope of this policy and the appointment of an investigator. The investigator will determine an appropriate process for the investigation, which may include reviewing relevant documents, obtaining written submissions, or meeting with the Survivor and the Respondent and any witnesses deemed to be relevant by the investigator. In the course of the investigation, the Respondent will be provided all relevant information, data, and evidence regarding the complaint and will be given an opportunity to respond in full.

8.8. At any time in the process, the Survivor has the right to withdraw the Report without consequences to their Carey status and activities or to make amendments to their initial Report before a final decision has been made. A Survivor who withdraws a Report may still access Carey's support services and any Accommodations put in place. Carey may continue to act on the incident identified in the Report in order to comply with applicable legal obligations for the safety of other Members of the Carey Community or the public at large. In the event that Carey is required by law to report the incident of Sexual Violence or Misconduct to legal authorities or outside governing bodies, the Survivor will be advised of this requirement.

8.9. A confidential investigation report that will be written which includes a summary of the allegation contained in the Report; findings of fact as determined as part of the investigation; an initial finding as to whether, on a balance of probabilities, Sexual Violence or Misconduct, Retaliation or a Malicious Complaint has occurred; and recommendations including any remedial steps to assist in better ensuring a work and learning environment free from Sexual Violence or Misconduct and any responsive action, including remedial measures and/or disciplinary action, if any.

8.10. Based on the outcome of the investigation, the Designated Carey Administrator in conjunction with the President of Carey will make a decision as to whether Sexual Violence or Misconduct, Retaliation or a Malicious Complaint has occurred, and any responsive action, including remedial measures and/or disciplinary action, will be taken as a result of the findings. Any determination that an incidence of Sexual Violence or Misconduct, Retaliation or a Malicious Complaint has occurred will be based on a balance of probabilities after consideration of such relevant information, data, and evidence. The Complainant and Respondent will be informed of the outcome of the investigation and any decisions as to whether Sexual Violence or Misconduct, Retaliation or a Malicious Complaint has occurred.

8.11. If the complaint is not substantiated any Interim Measures will be lifted and the Respondent will be returned to their full Carey status and activities. The Survivor may still access support services through Carey. An initial decision that a complaint has not been substantiated does not preclude the Respondent being further investigated and/or sanctioned upon the introduction of new information or evidence.

8.12. If the complaint is substantiated, the Designated Carey Administrator in conjunction with the President of Carey will implement remedial measures and/or disciplinary action, which provide a safe environment for the Survivor and Members of the Carey Community at large, based on the nature and severity of the violation: (a) with respect to Employees and Associates, up to and including termination of their respective relationship with Carey in accordance with the applicable terms and conditions of their appointment, employment agreement, contract or other agreement; or (b) with respect to Students, up

to and including expulsion from Carey or any Carey residence in accordance with Carey's Code of Conduct or other academic policies. Where the complaint is substantiated, the confidential outcome of the proceedings will be recorded in the Respondent's personnel file and may be used in any investigation of a subsequent complaint.

8.13. Failure to abide by the imposed remedial measures and/or disciplinary action is considered to be a further violation of the policy. Breach of remedial measures and/or disciplinary action may lead to the imposition of new or escalated remedial measures and/or disciplinary actions.

9. Conflict of Interest

9.1. If any Disclosure or Report is submitted in accordance with the policy, any Designated Carey Administrator or the President of Carey Theological College with a demonstrated conflict of interest must recuse themselves from any administration of this policy. Both the Survivor and the Respondent can identify a potential conflict of interest. Any Member of the Carey Community seeking to make a Report in accordance with this Policy to a Designated Carey Administrator in a potential conflict of interest may make such Report to any other Designated Carey Administrator.

10. Records & Policy Review

10.1. Carey's Human Resources department will keep records of all formal and informal resolutions and hearings except where otherwise stated in this policy. Any records will be maintained in a secure location and in accordance with all applicable laws, regulations and policies.

10.2. This policy will be reviewed annually to ensure that the procedures meet the policy objectives.

11. Contacts

Questions regarding this policy in writing to Vice President Operations & Registrar at hr@carey-edu.ca.

Related Policies:

N/A