SEXUAL MISCONDUCT BETWEEN STAFF AND STUDENTS POLICY

Scope

This policy applies to all employees of the school board, including probationary, permanent, term, substitute, casual, seconded employees (whether seconded to the school board or from the school board or outside the school board) contract employees and employees who are on leave from the school board with or without pay.

Purpose

The objective of this policy is to ensure that every staff member within the school board is aware of his/her responsibility to provide a safe, respectful and positive learning environment that is free from sexual misconduct for each student.

Policy Statement

The Cape Breton-Victoria Regional School Board and every staff member within the school board is committed to and responsible for providing a safe, respectful and positive learning environment that is free from sexual misconduct for every 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 CBVRSB fully believes and supports a far greater duty of care towards the students within its Board. 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 board.

No employee will engage in any activities that may be considered as sexual misconduct towards a student.

All Employees have an obligation to come forward and report reasonable suspicions of sexual misconduct between a staff member and a student. The CBVRSB 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 he/she knows to be false, the CBVRSB will provide a measured and appropriate response within its authority.
Cross Reference

HR308 Reference Checks Policy
HR309 Respectful Learning and Working Environment Policy

Authorization

The policy has been authorized by the Board under motions number 2012-04-41.

Responsibility

It is the responsibility of the Director of Human Resource Services to ensure that this policy and administrative procedures are implemented.

Implementation

The Coordinators of Human Resource Services will implement the policy and administrative procedures.

Procedures

1. Where an employee who, upon investigation, is found to:
   
   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;
   
   1.2 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.

2. Accordingly, the Board expects the Superintendent of Schools (or designate) to prepare, implement and monitor guidelines and procedures such that:

   2.1 Appropriate measures are taken to prevent incidents of sexual misconduct between an employee and student;
   
   2.2 Employees are informed of the appropriate boundaries between an employee and student, the requirements of the policy, and the consequences for a breach;
   
   2.3 Employees are informed of and encouraged to follow best practices in conducting themselves to minimize risks of being falsely accused of sexual misconduct;
2.4 Appropriate measures are taken to thoroughly and appropriately investigate allegations and/or reasonable suspicions of sexual misconduct between an employee and student;

2.5 Depending on the circumstances, the police will be contacted, as appropriate;

2.6 Depending on the circumstances, any external agency (e.g. Local child welfare agency) that ought reasonably to be involved will be contacted and cooperated with, as appropriate.

Associated Forms

Policy Review

This policy will be reviewed by the Director of Human Resources within three years from the authorization date.

Distribution

Board Members
All Policy Book Holders
CBVRSB Web Page
APPENDIX A

DEFINITIONS

**Employee** — a staff member hired by CBVRSB in any capacity (e.g. permanent, regular, term, temporary, substitute, casual, secondment) and, for the purposes of this policy, any other adult within the school board jurisdiction who is not otherwise a student including but not limited to student teachers and persons on work placements. 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 or to the appropriate remedial response to such sexual misconduct.

**Student** — a current student of the CBVRSB or one who has left the school board for any reason (including graduation) within the past twelve (12) months. The characteristics of the student (such as 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 or to the appropriate remedial response to such sexual misconduct.

**Sexual Misconduct** — any interaction between an employee and a student that is sexualized in nature including but not limited to:

- Sexual relations
- Sexual contact
- Sexual abuse
- Sexual harassment
- Sexual conduct such as remarks, jokes, innuendo, leering, gestures, taunts
- Sexual communications (verbal, written, electronic)
- Materials of a sexual nature involving student(s) and/or distributed to student(s)
- Establishing, or attempting to establish or participating in an intimate, personal, or emotional relationship even where there is no overt sexual content including but not limited to:

  ✓ Letters, texts, emails, messages, phone calls, or conversations
  ✓ Gifts
  ✓ Private meetings
  ✓ Dates

- Actions which could reasonably be construed as an attempt to develop into a sexual or sexualized relationship.