

What Are We Working With?

Looking At Concordia's Policies as they Relate to Sexual Assault

Policies create rules or standards to be consistently followed. They also set the tone on various issues within an institution. With the rate of sexual assault at post-secondary institutions far exceeding the rate among the general population (1 in 4 over the course of an average post-secondary education), policies on sexual assault are of primary importance in a university setting.

With this in mind, we set out to examine Concordia University's policies as they relate to sexual assault. Concordia does not actually have a policy that specifically and comprehensively addresses sexual assault. A search of the University's website for "sexual assault," does not bring up any results. There is one policy with some relevance to the issue however: the Code of Rights and Responsibilities. The Code guides and governs the behaviour of students, faculty and staff at Concordia.

Sexual harassment is defined in Article 28, section b) of the Code of Rights and Responsibilities:

... a form of harassment which involves conduct of a sexual nature such as, but not limited to, sexual assault, verbal abuse or threats of a sexual nature, unwelcome sexual invitations or requests, demands for sexual favours or unwelcome and repeated innuendoes or taunting about a Member's body or appearance when:

i. submission to such conduct is made, whether explicitly or implicitly, a term or condition of the Member's employment or educational progress; or

ii. submission to or rejection of such conduct is used as the basis for an employment or academic decision affecting that Member; or

iii. such conduct has the effect or purpose of unreasonably interfering with a Member's right to pursue his/her work, study or other activities related to University life in a safe and civil manner or of creating an intimidating or hostile environment for such activities.

A single serious incidence of such behaviour may constitute harassment if it has the same consequences and if it produces a lasting harmful effect on the Member.

For the record, this is the only place where the words "sexual assault" appear in this policy – or, in fact, in any policy at Concordia, and it only appears here to conflate sexual assault with sexual harassment. There is no section of this policy that addresses sexual assault on its own. **The term "sexual assault" has no place in the list of prohibited behaviours at Concordia University.** Sexual assault is only prohibited insofar as it is considered to be under the umbrella of sexual harassment, and as such is so buried in policy as to be completely inaccessible to students.

Let's break this down. What does the Code mean when it specifies that in order to constitute harassment, the incidence must have a "lasting harmful effect on the Member"?

Fortunately, the Office of Rights and Responsibilities has a website which provides some clarification. With regards to harassment, it says:

The definitions of these offenses consist of two parts: the kind of behaviour in question, and the impact of that behaviour on you.

-Kind: it must be unwanted, vexatious, and without valid reason.

-Impact: it must be damaging in some way, causing you to suffer some disadvantage related to your physical or psychological well-being or your activities on campus.

In other words, it is not enough to be momentarily offended by some unpleasant remark or gesture by some stranger in the hallway. If you want to file a formal complaint, the behaviour must be more persistent or serious than that.

This is disturbing, primarily because it sets up a scenario in which simply being the victim of a crime is not reason enough to seek accountability; the focus of the policy is not on the behaviour itself, but rather on the target's emotional reaction to the behaviour.

This is a dangerous way to approach cases of harassment and sexual assault – not only because individual reactions to these situations are highly variable, and interpreting someone's emotions is incredibly subjective, but because it capitalizes on the way most cases of sexual assault and harassment are treated in mainstream justice systems and in the media: putting the survivor on trial rather than the perpetrator. It's an approach that focuses on the survivor's reaction to the assault (were they upset enough? can they prove that there was sufficient trauma?) and even whether or not they "contributed" to their assault (never mind that assault and harassment are, by definition, both "unwanted" and "without valid reason").

Now, let's take a look at reporting statistics at Concordia. The ORR releases an annual report that analyzes the statistics on all the complaints received by the Office. The most recent year for which a report is available is the 2010-2011 academic year. The ORR breaks down complaints by the behaviour described in the complaint:

OFFENSE	CODE	TOTAL
Harassment	28a	17
Sexual Harassment	28b	9
Psychological Harassment	28c	19
Discrimination	28d	7
Communication of Discriminatory Matter	28e	1

Threatening or Violent Conduct	28f	23
Offences against property	29a	2
Furnishing false information	29b	2
Maliciously activating fire alarms	29c	0
Bomb threats	29d	0
Theft or abuse of computing facilities or time	29e	0
Unauthorized entry into University property	29f	2
Obstruction or disruption of work or studies	29g	5
Camping or lodging on University property	29h	0
Forging or altering University documents	29i	3
Hazing	29j	0
Unlawful use or sale of controlled substances	29k	1
Possession or use of explosives	29l	0
Possession or use of weapons	29m	0
Unauthorized use of University's name	29n	1
Offence against laws or regulations	29o	1
Student-of-concern	n/a	14
Administrative Consult	n/a	7
Total		114

Nine cases over the course of an academic year, for a school the size of Concordia, is very unusual (even for a university with minimal student residences), and indicates that only a small minority of cases are actually reported.

At the University of Alberta, a school with roughly the same student population as Concordia, its Sexual Assault Centre sees an average of 200 cases of sexual assault and/or harassment per year. Clearly there is a significant disparity here. It would be illogical to conclude that Concordia, despite having no school-sponsored primary prevention or even any real risk reduction initiatives taking place on a regular basis, sees so many fewer cases of sexual violence and harassment than the University of Alberta (a school with a fully staffed Sexual Assault Centre that runs roughly 60 primary prevention workshops per year). It is clear that students at Concordia are simply not reporting cases of sexual violence and harassment.

Given the language on the website of Concordia's ORR – not to mention the sheer inaccessibility of the policies at Concordia – can anyone blame them? Looking again to the ORR' website, we find this description of what a student can expect when filing a formal complaint:

In order to sustain a formal complaint under the Code of Rights and Responsibilities, that impact of the behaviour on you must have a certain weight: You must show that you have suffered disadvantages that others have not, or that your work or study was affected [...] If you are thinking of filing a complaint, the Advisor will explain in detail what the process involves. It is important to understand that once you choose this route, you have entered into an adversarial process where others decide the outcome. This is very different from a situation where you deal with the problem yourself, or negotiate a solution with the other party.

One might imagine that these are not the most encouraging words to someone who has possibly just experienced a crime in which their choice and control was taken away from them. This description makes it clear that once you “choose” a formal complaint process, not only will the process itself be “adversarial,” it will be entirely out of your control. Naturally, the passage closes with a not-so-subtle hint that you might be better off just resolving the problem yourself.

In addition, though all consultations with the ORR are confidential, there is no indication that students have the option of filing anonymous reports. Clearly, there is a lot of work to be done on an institutional level at Concordia when it comes to respecting survivor autonomy.

To sum up:

- In all of Concordia University’s policies, sexual assault is only mentioned once, in the Code of Rights and Responsibilities.
- When sexual assault is mentioned, it is only mentioned insofar as to conflate it with sexual harassment.
- This means that cases of sexual assault which are reported to the Office of Rights and Responsibilities (ORR) – the only body that keeps public records of Code violations – these do not actually show up in reports as “sexual assault”, but rather as “sexual harassment”.
- Despite this, reports falling into the “sexual harassment” category of the Code are far fewer than other Universities that are a) roughly the same size as Concordia, and b) invested in keeping accurate records of cases of sexual assaults among their student body.
- Much that is written about policies and procedures – on Concordia Security’s website, on the website of the ORR – repeats victim-blaming rhetoric and appears to discourage students from reporting/filing formal complaints.
- The procedures followed by the ORR in actually dealing with formal complaints seems to be rooted in an institutionalized suspicion of survivors, and hinges not on whether or not an assault actually took place, but on the emotional reaction of the survivor to their assault.

Clearly there’s a lot of work to be done! The good news is that there is a growing group of volunteers at Concordia who are dedicated to working on this, in addition to a broader network of organizations around the country and around the world who are willing to offer assistance and support in effecting change at Concordia.

If you’d like to get involved in this effort, please contact us at [sexualhealth\[at\]centre2110.org](mailto:sexualhealth@centre2110.org) or 514-848-2424 x7431.