

<b>Engineers Without Borders: Sexual Misconduct and Sexual Assault Policy</b>	
<b>Subject: Sexual Misconduct and Sexual Assault Policy</b>	Date of Issue: July 3, 2018
Approved By: Boris Martin, CEO	Review Date:
Scope: EWB employees (national office and in country teams), fellows, chapter members, board members, contractors, ventures and placement partner orgs	Policy Number: 5.5

**Purpose:** Engineers Without Borders (EWB) values dignity, respect and equality for all individuals and strives to foster an atmosphere of healthy attitudes and behaviors towards sexuality, sex and gender roles. EWB is committed to maintaining a healthy and safe working environment for its community. EWB community includes: EWB employees, Fellows, Chapter members, Board members and contractors. EWB expects that all interpersonal relationships and interactions—especially those of an intimate nature—will be based on mutual respect, open communication, and clear consent. When learning of conduct or behavior that may not meet these standards, members are expected to take an active role in upholding this policy and promoting the dignity of all individuals.

**Policy Statement:** Engineers Without Borders is committed to maintaining a community free from all forms of sex discrimination, including sexual misconduct. EWB will not tolerate any form of sexual misconduct such as rape, sexual assault, sexual harassment, or other forms of non-consensual activity, including stalking, and/or domestic violence or dating violence, sexual exploitation and other sexual misconduct. Sexual misconduct can occur between strangers, acquaintances, or people who know each other well, including those who are involved in an intimate or sexual relationship, and can be committed by anyone regardless of sex, gender, or gender identity. EWB will take prompt and effective steps to end the sexual misconduct, eliminate the hostile environment, prevent recurrence and, as appropriate, remedy its effects.

**Transitional condition:** This is the first year we’re implementing this policy, it will take a full year to implement all steps outlined in this policy.

**Policy Implementation:**

To ensure this policy stays relevant and EWB employees, Fellows and Chapter members understand the policy, the following process will be followed:

- 1. Comprehensive policy:**
  - a. Policy will be reviewed by Joint Health Safety Committee (JHSC) and Board Health Safety Wellness (HSW) committee;

- b. Policy will be reviewed every 2 years, or sooner if an issue arises with its interpretation or we realise there are gaps.

**2. Awareness and understanding:**

- a. Policy will be integrated into onboarding, to ensure all new staff understand the policy and have a chance to ask any questions for clarification;
- b. Policy is part of Employee Code of Conduct that staff need to review and sign on an annual basis;
- c. Policy will be part of Pre Departure training for all fellows, with a reminder during Fellowship Retreats;
- d. Policy is part of Code of Conduct that fellows need to review and sign before their placement;
- e. Policy is part of Chapter Code of Conduct, that chapter members need to agree to before attending any EWB National Office organized convening events;
- f. Policy is part of MOU ventures agree to before they become an EWB partner, step before an investment is made and fellows are placed;
- g. Policy is part of MOU partners agree to before they become an EWB partner, step before fellows are placed;
- h. Review the policy with staff, plus a quiz to test understanding of different sections.

**3. Trusted and accessible reporting:**

- a. Confidential reporting channel to EWB's HR Department via [concerns@ewb.ca](mailto:concerns@ewb.ca);
- b. Emergency Hotline number, that is publicly published;
- c. Reporting via AI bot to produce a reliable record that is time and date stamped via [www.talktospot.com](http://www.talktospot.com);
- d. Active Whistleblower Policy, that is included in the Employee, Chapter and Fellow Code of Conduct.

**4. Tracking, accountability and taking action:**

- a. All incidents to be tracked by EWB's HR Department;
- b. All incidents to be reported to the Board HSC on a quarterly basis, and any significant incidents to be reported to the Board during quarterly meetings. Personal details will be omitted if the subject wants the violation to remain confidential and doesn't want to pursue the matter any further;
- c. All follow up actions to be reported to board, to ensure commitment and follow through on actions.

**What is prohibited:**

Prohibited Sexual Conduct is the umbrella term that EWB uses to collectively define different types of misconduct relating to assault, violence or exploitation of a sexual nature, or connected to an intimate relationship. Prohibited Sexual Conduct includes:

- I. Staff-on-Staff Sexual Harassment,
- II. Staff-on-Beneficiary Sexual Harassment,
- III. Sexual Misconduct,
- IV. Sexual Assault,

- V. Stalking,
- VI. Violation of EWB Directive or Court Order relating to Prohibited Sexual Conduct or allegations of Prohibited Sexual Conduct and
- VII. Retaliation relating to Prohibited Sexual Conduct or Allegations of Prohibited Sexual Conduct.

**Definitions:**

**I. Staff-on-Staff Sexual Harassment:**

Unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature constitute sexual harassment when the conduct has the purpose or effect of creating an intimidating or hostile work environment.

Determining what constitutes sexual harassment depends on the specific facts and context in which the conduct occurs. Sexual harassment may take many forms: subtle and indirect or blatant and overt. For example, it may:

- Be conducted toward an individual of the opposite sex or the same sex
- Occur between peers or between individuals in a hierarchical relationship
- Be aimed at coercing an individual to participate in an unwanted sexual relationship or have the effect of causing an individual to change behavior
- Consist of repeated actions or may even arise from a single incident

Whether the unwanted sexual conduct rises to the level of creating an intimidating or hostile environment is determined using both a subjective standard and an objective standard.

**II. Staff-on-Beneficiary Sexual Harassment:**

Due to power dynamics, any staff or fellows that are placed in the field need to be even more sensitive about their actions. Sexual harassment is the same as the definition above.

Beneficiaries include: Chapter members, fellows, venture leaders, partners, venture staff and surrounding community that EWB members are placed in.

**III. Sexual Misconduct:**

Sexual misconduct is the commission of a sexual act, whether by a stranger or nonstranger and regardless of the gender of any party, which occurs without indication of consent.

1. The following acts or attempted acts can be the subject of a Sexual Misconduct or Sexual Assault charge:
  - a. vaginal or anal intercourse;
  - b. digital penetration;
  - c. oral copulation; or
  - d. penetration with a foreign object
2. Additional Acts of Sexual Misconduct
  - a. unwanted touching or kissing of an intimate body part (whether directly or through clothing); or

- b. recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and consent of all parties involved.

#### **IV. Sexual Assault:**

Sexual Assault is an act described in "Sexual Misconduct" accomplished by use of (a) force, violence, duress or menace; or (b) inducement of incapacitation or knowingly taking advantage of an incapacitated person.

Definitions of force, violence, duress, menace, consent and incapacitation:

- An act is accomplished by force if a person overcomes the other person's will by use of physical force or induces reasonable fear of immediate bodily injury.
- Violence means the use of physical force to cause harm or injury.
- Duress means a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity to do or submit to something that he or she would not otherwise do or submit to. When deciding whether the act was accomplished by duress, all the circumstances, including the age of the impacted party and his or her relationship to the responding party, are relevant factors.
- Menace means a threat, statement, or act showing intent to injure someone.
- Consent is an affirmative nonverbal act or verbal statement expressing consent to sexual activity by a person that is informed, freely given and mutually understood. It is the responsibility of person(s) involved in sexual activity to ensure that he/she/they have the affirmative consent of the other or others to engage in the sexual activity. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. Lack of protest or resistance does not mean consent, nor does silence mean consent. Consent to one act by itself does not constitute consent to another act. The existence of a dating relationship between the persons involved, or the fact of past sexual relations, should never by itself be assumed to be an indicator of consent. Whether one has taken advantage of a position of influence over another may be a factor in determining consent.
- Incapacitation means that a person lacks the ability to voluntarily agree to sexual activity because the person is asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over his/her body, is otherwise unaware that sexual activity is occurring, or is unable to appreciate the nature and quality of the act. Incapacitation is not the same as legal intoxication. A party who engages in sexual conduct with a person who is incapacitated under circumstances in which a reasonable sober person in similar circumstances would have known the person to be incapacitated is responsible for sexual misconduct. It is not a defense that the Responding Party's belief in affirmative consent arose from his or her intoxication.

#### **V. Stalking:**

Stalking is the repeated following, watching or harassing of a specific person that would cause a reasonable person to (a) fear for his or her safety or the safety of others, or (b) suffer substantial emotional distress.

## **VI. Violation of EWB Directive or Court Order:**

A violation of EWB Directive is the failure to comply with a directive issued by the organisation that restricts the activities of an individual in connection with an allegation or finding of Prohibited Sexual Conduct. A violation of a court order is the failure to comply with any formal order issued by the court or authorized police officer that restricts a person's access to another EWB community member, such as an emergency, temporary or permanent restraining order.

## **VII. Retaliation:**

It is a violation of this policy to retaliate against any person making a complaint of Prohibited Sexual Conduct or against any person participating in the investigation of (including testifying as a witness to) any such allegation of Prohibited Sexual Conduct. Retaliation should be reported promptly to the HR Department via [concerns@ewb.ca](mailto:concerns@ewb.ca). Individuals engaging in retaliation are subject to discipline and/or removal from responsibilities. Retaliation includes direct or indirect intimidation, threats, coercion, harassment or other forms of discrimination against any individual who has brought forward a concern.

## **Getting Immediate Help:**

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If you or someone you know has experienced Prohibited Sexual Conduct, here are some steps to consider:

- 1) If you are in immediate danger, or if you believe there could be an ongoing threat to you or the community, please call 911 or 9-911 from an office phone.
- 2) Get to a safe place and call the emergency "hotline" - this number is linked to EWB's HR Department and your call will be treated confidentially.
- 3) You are encouraged to seek medical attention and a medical-legal examination for evidence collection purposes.
- 4) You are encouraged to contact the police, although you are not required to make a report to the police. EWB's HR Department or Management Team will assist you in contacting local law enforcement authorities, if you request assistance. If you believe that there is an ongoing threat to your safety from a particular individual, you may request a Restraining Order or Peace Bond from a police officer or provincial court.
- 5) If you are able, you are encouraged to write down what you remember about the incident. If possible, record information in a chronological order including details, such as names of the accused and witnesses, time-estimates and locations. This record will assist you in recalling the event later and might assist you in any further process, such as speaking to the police, doctors or staff. You can do this via Spot: <https://talktospot.com>. This app will prompt you through all the details that are needed to produce high quality evidence, this app also enables you to produce a time and date stamped report for evidence.

## **Reporting Acts of Sexual Misconduct to EWB:**

### ***Where to Report***

Any incidents should be reported to EWB Human Resources Department via [concerns@ewb.ca](mailto:concerns@ewb.ca). The Director of HR is the only person that has access to this account, and any reports will be treated

confidentially. Your name or personal information will not be shared with anyone if you don't want to take the matter any further.

The Director of HR will follow the protocol detailed in the table below depending on the employee/fellow/Chapter member/Board member/ other stakeholder involved in the wrongdoing. If the subject doesn't want to take the matter any further, these incidents will be reported to the Board HSW Committee with all personal details omitted, to ensure all incidents are documented and preventative and/ or remedial action can be taken. The Director of HR will share the report with the parties listed below within 24 hours of the incident being reported.

<b>Wrongdoing with respect to:</b>	<b>Report will be shared with:</b>
An EWB Employee, Fellow, Chapter Member or other Party acting on EWB's behalf	CEO and Joint Health and Safety Committee (JHSC)
Member of the Management Team	CEO
CEO	Chair of Board of Directors and a copy to the Board HSW Committee
Member of Board of Directors	Chair of Board of Directors
Chair of Board of Directors	Vice-chair(s) of Board of Directors

**What to Report**

EWB staff members, Fellows, Chapter members and Board members are required to report Prohibited Sexual Conduct if they are aware of it. The same reporting mechanisms will be available for external parties to report incidents that occurred when interacting with staff, fellows and chapter members in an EWB related capacity - the reporting channels will be published on the website. In these circumstances the following information (if known) should be provided:

- Name of person who may have experienced Prohibited Sexual Conduct
- Name of Responding Party (accused party)
- Date of the incident
- Date of report
- To whom report was made
- Location of the incident
- Time of the incident
- Nature of the conduct (be as specific as possible, identify the category(ies) of Prohibited Sexual Conduct—sexual misconduct, sexual assault, stalking, relationship violence; and also specific allegations: e.g., sexual misconduct: IP awoke to RP touching her breasts without permission.)

### ***Who Must Report***

EWB staff members, Fellows, Chapter members and Board members with knowledge of unreported concerns relating to Prohibited Sexual Conduct are required to report such allegations to the HR Department. Reporting to HR Department is required by staff, Fellows, Chapter members and Board members regardless of whether the subject/ victim of the Prohibited Sexual Conduct has or has not indicated they will report the incident. If the victim wishes to keep this incident confidential, their name can be omitted from the report. However, reporting is required to ensure EWB is informed and able to put measures in place to prevent further incidents.

EWB urges individuals who have been subjected to Prohibited Sexual Conduct to make an official report, whether or not they intend at that time to seek criminal or civil redress or pursue internal disciplinary measures. A report of the matter will be dealt with promptly and equitably.

EWB Response to Allegations of Sexual Misconduct:

#### ***1. Immediate Response:***

Upon notice of any concern regarding Prohibited Sexual Conduct, EWB will immediately assess the situation and respond, within one day to one week, depending on the gravity of the incident. Safety measures and accommodations necessary to ensure the safety of the Complainant will be instituted immediately (within 2h of the reported incident).

#### ***2. Investigation Process for Matters involving Staff, Fellows, Chapter Members or Board Members as the Alleged Wrongdoer:***

EWB will first assess whether an investigation will be conducted; that is, whether the allegation(s), if true, would rise to the level of Prohibited Sexual Conduct and, if so, whether a formal investigation is appropriate under the circumstances, taking into account the Complainant's request for confidentiality. The decision-makers to assess whether to move forward to an investigation are: Board HSW Committee and Management Team (depending on who the alleged wrongdoer is). In instances in which EWB decides to move forward to an investigation, each party will have the same opportunities within the process including: written notice of the concern, an opportunity to respond and be interviewed, and an opportunity to identify relevant witnesses and evidence. Investigations of Prohibited Sexual Conduct will be timely and equitable. EWB will review relevant information. While corroborating evidence of accounts is helpful, it is not always available and the credible account of one party can be sufficient to establish a fact. EWB makes good faith efforts to complete investigations in a 60 day timeframe, although extensions may be appropriate in some matters. Investigations of allegations of Prohibited Sexual Conduct may be conducted by a trained member of the Board HSW Committee or a trained member of the JHSC or by outside resources, depending upon who the parties are and the nature of the conduct alleged. During this process EWB will take the approach that the misconduct more likely occurred, than not.

#### ***3. Support Resources, Interim Measures & Remedies:***

EWB will take steps to prevent the recurrence of Prohibited Sexual Conduct through safety measures. To the extent reasonable and feasible, EWB will consult with the Complainant and in determining safety measures. Appropriate support resources, interim measures and remedies may include:

- Housing accommodations (when the incident takes place away from the Complainant's home country)
- Counseling services
- No contact directives, stay-away letters, or office bans
- Review or revision of EWB policies or practices
- Training
- Climate surveys

**4. *Potential Safety Measures in the Event of No Investigation:***

Even if EWB decides not to confront the Responding Party because of the Complainant's request for confidentiality, EWB may pursue other reasonable steps to limit the effects of the Prohibited Sexual Conduct as feasible and reasonable in light of the Complainant's request for confidentiality. EWB's response may be limited, however, by a request for confidentiality.

**5. *Disciplinary & Corrective Action Processes:***

Staff, fellow, chapter member and board member violations of this policy will be addressed during the investigation. When violations are found, possible sanctions range from training to dismissal/termination, depending on the outcome of the investigation.

**Confidentiality:**

EWB will make reasonable and appropriate efforts to preserve an individual's privacy and to protect the confidentiality of information. However, because of laws relating to reporting, EWB cannot guarantee confidentiality relating to incidents of Prohibited Sexual Conduct. Exceptions to maintaining confidentiality are set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault are required to report it to law enforcement. Also, physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a person under age 18.

Except for Confidential Resources, information shared with other individuals is not legally protected from being disclosed. If the individual requests confidentiality or requests that there be no investigation, EWB's ability to respond may be limited, including pursuing discipline or administrative remedies against the accused. It is not always possible to provide confidentiality depending on the seriousness of the allegation and other factors, which will be weighed by the Director of HR and Board HSC in conjunction with an individual's request for confidentiality or a request not to pursue an investigation. These factors include circumstances that suggest an increased risk of the accused committing additional acts of Prohibited Sexual Conduct or other violence, e.g. whether the Prohibited Sexual Conduct was perpetrated with a weapon. EWB takes requests for confidentiality seriously while at the same time considering its responsibility to provide a safe environment for our community. EWB in such circumstances will make sure the Complainant is aware he/she/they are protected from retaliation.



## **Medical-Legal Evidence Preservation:**

Individuals who have experienced a sexual assault are encouraged but not required to have a medical-legal exam performed by a trained medical professional as soon as possible (i.e., within 72 hours) after the assault. The medical professional will address an individual's medical needs related to the assault as well as collect evidence in accordance with established protocols for evidence collection.

In order to preserve evidence, individuals are advised not to shower, wash, urinate, wipe, change clothes, eat, drink or brush their teeth prior to the exam, if possible.

Even if an individual is uncertain about whether to pursue criminal or other remedies, participating in the exam allows for the collection and preservation of evidence that might be useful should the individual decide to pursue some type of action at a later date.

To collect and preserve evidence of Prohibited Sexual Conduct, individuals experiencing unwanted sexual conduct are encouraged to photograph injuries; retain emails, text messages, phone records and other similar evidence; and maintain a journal or other means to document incidents.

## **EWB Action in Conjunction with Criminal Processes:**

In addition to EWB investigation and disciplinary actions, a person who engages in Prohibited Sexual Conduct may be the subject of criminal prosecution.

Individuals experiencing Prohibited Sexual Conduct have the option to notify law enforcement or not to notify law enforcement. EWB HR Department will assist individuals wishing to report a matter to the police. A police report must be made before a criminal prosecution can be considered. The chances of successful prosecution are greater if the report to the police is timely and is supported by the collection of medical-legal evidence (See above, Medical-Legal Evidence Collection). Victims have the right to request that law enforcement implement an Emergency Protective Restraining Order.

Because the requirements and standards for finding a violation of criminal law are different from the standards for finding a violation of this Policy, criminal investigations or reports are not determinative of whether Prohibited Sexual Conduct, for purposes of this Policy, has occurred. In other words, conduct may constitute a violation under this Policy even if law enforcement agencies lack sufficient evidence of a crime and therefore decline to prosecute. Moreover, the filing of a complaint of Prohibited Sexual Conduct with EWB is independent of any criminal investigation or proceeding. EWB will not wait for the conclusion of any criminal investigation proceeding to commence its own investigation and/or to take interim measures to protect the Complainant and EWB community. Both a criminal investigation and an EWB investigation involving the same incident(s) may occur simultaneously.

## **Education and Prevention:**

### **Active Bystander:**

EWB expects all staff, Fellows, Chapter members and Board members to be Active Bystanders against sexual violence. The following information is based on Bystander Intervention research being done at

the University of New Hampshire and the guidelines developed by UNH. "Bringing in the Bystander®" is a registered trademark of the University of New Hampshire on behalf of [Prevention Innovations](#). Learn to recognize the signs of danger and learn how to intervene safely. Commit to being an Active Bystander.

***Some simple steps to becoming an Active Bystander:***

- Notice the situation: Be aware of your surroundings.
- Interpret it as a problem: Do I recognize that someone needs help?
- Feel responsible to act: See yourself as being part of the solution to help.
- Know what to do: Educate yourself on what to do.
- Intervene safely: Take action but be sure to keep yourself safe (see next step).

***How to Intervene Safely:***

- Tell another person. Being with others is a good idea when a situation looks dangerous.
- Ask person(s) you are worried about if they are okay. Provide options and a listening ear.
- Distract or redirect individuals in unsafe situations.
- Ask the person(s) if they want to leave. Make sure that they get home safely.
- Call the police (911) or someone else in authority or yell for help.

**Education and training:**

- ***For staff:***

Code of Conduct to be reviewed with staff annually, all staff required to sign annually. Include a quiz on policies to ensure understanding during team retreats. All staff to attend gender and power dynamics training sessions once every 2 years. These sessions are run 2-3 times per year, during Long-term Fellows pre-departure training.

- ***For fellows:***

All Fellows receive training on prevention and response to sexual harassment and assault, as well as training on gendered risks and power dynamics, as part of the pre-departure training. The Fellowships Team revisits this training ahead of each cohort to ensure material is up-to-date.

- ***For chapter members:***

All chapter members attending EWB organized convening events have access to EWB's policies and procedures, including an Active Bystander resource. Chapter members are also required to sign a code of conduct before attending any EWB convening event. Chapters have access to gender and power dynamics Member Learning resources that they are encouraged to facilitate at their chapters.

- ***For Ventures and partners:***

All ventures and partners must review and adhere to this policy before engagement, the Fellowships Team and Ventures Team provide space to resolve questions to ensure full understanding of this policy. The Member Learning resources created for chapters around these topics, are also available for ventures and partners to utilize.

**Other ways EWB proactively prevent incidents:**

- ***Recruitment of ventures and partnerships:***

During the recruitment and selection process for investment ventures and partner organisations to place fellows, EWB commits to conducting due diligence around HSW culture and practices in those organisations. In ventures and partner organisations that are hosting fellows for the first time, the fellowships team commits to gathering information during the placement to gain insight on the culture of the organisation in an effort to ensure they align with EWB's values, including providing a safe and healthy working environment. These check in points will be during 1:1 check-ins between fellows and fellow support staff.

Ventures and partner organisations sign T&C or MOU before any fellows are placed in those organisations, this T&C or MOU contains policies and terms of reference ventures and partner orgs need to comply with as EWB affiliated organisations, and that we have the right to terminate the partnership for breach of certain codes of conduct.

- ***Recruitment of staff and fellows:***

EWB commits to screening staff during the recruitment process to ensure they are effectively able to manage personal biases. This is especially important for in-country staff that are responsible for providing necessary support to our fellows. The staff on the fellowships team are the first point of contact for many fellows experiencing difficulties in the field, and therefore need to be approachable, unbiased and supportive. Specific screening around attitudes towards sexuality, sex and gender will also be conducted for Community Team, Investment Team, HR staff and other staff that are at the frontline when interacting with and supporting EWB's community.

During the fellow recruitment process, the first interview is around "culture fit" to screen for certain attitudes towards sexuality, sex and gender. Candidates must pass this interview before they are passed onto venture screening.

- ***Public policy:***

This policy will be available on our website, with the emergency "hotline" number and confidential email address clearly noted. All partners organisations and ventures will be informed of this policy, and will be expected to agree to the policy before their engagement with EWB. This also ensure that ventures and partner organisation know the standard that EWB sets for staff, fellows, chapter members and board members and if they observe any violations they know the appropriate channels to report the incident.

Approved by:



Boris Martin, CEO

Date: July 3, 2018