

Policy:	Sexual Misconduct and Sexual Assault
Approved by:	David Boroto, CEO
Applies to:	EWB Canada Staff, Chapter Members, Fellows, Volunteers, Directors and Interns.
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Purpose

Engineers Without Borders Canada (“EWB”) values dignity, respect and equality for all individuals and strives to foster an atmosphere of healthy attitudes towards sexuality, sex and gender roles. EWB is committed to maintaining a healthy and safe working environment for its Staff, Chapter Members, Fellows, Volunteers, Directors, and Interns (collectively, “Parties”). 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 behaviour that may not meet these standards, Parties are expected to take an active role in upholding this policy and promoting the dignity of all individuals.

EWB 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, domestic violence, dating violence and sexual exploitation.

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 proactively foster a culture that dissuades Sexual Misconduct in all forms. EWB will take prompt and effective steps to end any Sexual Misconduct, eliminate the hostile environment, prevent recurrence and, as appropriate, remedy its effects.

Definitions

The following definitions apply for the purpose of this Policy:

Accused: a Respondent who, during the investigation process, is contacted by law enforcement or receives legal charges.

Coercion: unwanted sexual activity that happens when a person is pressured, tricked, threatened, or forced in a nonphysical way.

Complainant: a person reporting Sexual Misconduct or sexual assault that they experienced or witnessed.

Consent: an affirmative nonverbal act or verbal statement expressing permission that is freely given and mutually understood to engage in voluntary sexual activity by an informed person who is of sound capacity. It is the responsibility of the person(s) involved in sexual activity to ensure that they have the affirmative consent of the other(s) 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 be assumed to be an indicator of consent. A person cannot receive consent from an individual by abusing a position of power, trust or authority.

Duress: 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 they 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 their relationship to the offending party, are relevant factors.

Force: overcoming another person's will by use of physical strength or violence, or by inducing reasonable fear of immediate bodily injury.

Incapacitation: a state in which a person lacks the ability to voluntarily agree to sexual activity because they are asleep, unconscious, under the influence of an anesthetizing or intoxicating substance such that the person does not have control over their 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 offending party's belief in affirmative consent arose from their own intoxication.

Joint Health and Safety Team (JHST): a committee composed of EWB Managers, Board Health, Safety and Wellness Committee Members, and the Worker Health and Safety Representative.

Manager: an employee with direct supervisory authority over other employee(s).

Menace: a threat, statement, or act showing intent to injure someone.

Respondent: a person alleged by a Complainant to have committed an act of Sexual Misconduct or sexual assault, as defined by this Policy. This definition is distinct from "Accused".

Sexual Assault: the commencement of a sexual act, whether by a stranger or nonstranger, regardless of the gender of any party, which occurs without indication of consent. This includes, but is not limited to:

- vaginal, anal or oral intercourse;
- digital penetration, or penetration with a foreign object;
- unwanted touching or kissing of an intimate body part (whether directly or through clothing); or
- recording, photographing, transmitting, viewing or distributing intimate or sexual images without the knowledge and consent of all parties involved.

Additionally, sexual assault includes any act described in "Sexual Harassment" accomplished by use of force, violence, duress, coercion or menace; or inducement of incapacitation or knowingly taking advantage of an incapacitated person. The [Criminal Code](#) of Canada uses "sexual assault" as the umbrella charge for all forms of unwanted sexual touching or activity, as described in this Policy.

Sexual Harassment: unwelcome sexual advances, requests for sexual favours, 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. It may include:

- asking questions, talking, or writing about sexual activities;
- rough or vulgar humour or language related to sexuality, sexual orientation or gender;
- displaying or circulating pornography, sexual images, or offensive sexual jokes in print or electronic form;
- leering or inappropriate staring;
- invading personal space;
- unnecessary physical contact, including inappropriate touching;
- demanding hugs, dates, or sexual favours;
- making gender-related comments about someone's physical characteristics, mannerisms, or conformity to sex-role stereotypes;
- verbally abusing, threatening or taunting someone based on gender or sexual orientation; or
- threatening to penalize or otherwise punish a worker if they refuse a sexual advance.

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;
 - for an abundance of clarity, a "hierarchical relationship" does not require a *direct* reporting relationship (e.g., Fellow and their supervisor). Hierarchical relationships can occur between Parties in different departments of EWB. The salient point is the *perception* of the power imbalance; a Manager in one department and a Staff Member in another would still be considered as having a hierarchical relationship,
- be aimed at coercing an individual to participate in an unwanted sexual relationship or unwanted sexual acts; and
- consist of repeated actions or may even arise from a single incident.

Sexual harassment is workplace harassment.

Sexual Misconduct: the umbrella term that EWB uses to collectively define different types of unwanted or unwelcome behaviour relating to sexual assault, sexual harassment, violence or exploitation of a sexual nature, or connected to an intimate relationship.

Stalking: the repeated following, watching or harassing of a specific person that would cause them to reasonably fear for their safety or the safety of others, and/or suffer substantial emotional distress.

Vexatious: behaviour which lacks sufficient ground and serves only to annoy or harass when viewed objectively.

Violence: the use of physical force to cause harm or injury.

What is prohibited

Sexual Harassment and Sexual Misconduct: in all forms, against any Party. Staff and Fellows working on overseas placements need to be especially sensitive about their actions when interacting with beneficiaries, Fellows, EWB Partners and the surrounding community.

Violation of EWB Directive: the failure to comply with a directive issued by EWB that restricts the activities of an individual in connection with an allegation or finding of Sexual Misconduct.

Violation of a Court Order: the failure to comply with any formal order issued by the court or authorized law enforcement officer that restricts a person's access to another EWB community member, such as an emergency, temporary or permanent restraining order.

Retaliation: it is a violation of this Policy to retaliate against any person making a complaint of Sexual Misconduct or against any person participating in the investigation of (including testifying as a witness to) any such allegation of Sexual Misconduct.

Retaliation should be [reported promptly](#) to the JHST Managers and Directors. 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

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

- 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 the relevant emergency services, law enforcement or equivalent authorities in your current country;
- you are encouraged to seek medical attention and a medical-legal examination for evidence collection purposes;
- you are encouraged to contact local law enforcement, although you are not required to make a report to them. 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 law enforcement or equivalent authorities; and
- if you are able to, 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 law enforcement, doctors or management.

Implementation

To ensure this Policy stays relevant, and that EWB Parties understand the Policy, the following process will be followed:

Comprehensive Policy Creation: the Policy will be reviewed by the Board Health, Safety and Wellness Committee (HSW). It will be reviewed annually, or sooner if an issue arises with its interpretation or gaps are discovered.

Awareness and Understanding:

The Policy:

- will be integrated into onboarding, to ensure all new Parties understand the Policy and have an opportunity to ask any questions for clarification;
- is part of the Employee Code of Conduct;
- will be part of pre-departure training for all Fellows, with a reminder during Fellowship Retreats;
- is part of the Fellows' Code of Conduct that Fellows need to review and sign before their placement;
- is part of the Chapter Leader Code of Conduct, that Chapter Leaders need to review and sign before participating in EWB Canada programs or attending EWB Canada events;
- is part of the Events Code of Conduct, that Chapter Members and other guests need to review and sign before attending EWB Canada events; and
- is part of a Memorandum of Understanding (MOU) that potential Partners review and sign, before they become an EWB Partner.

Trusted and accessible reporting:

Parties have access to:

- the confidential [Incident Reporting Form](#), sent to the JHST;
- public emergency hotline numbers, included in Health and Safety posters; and
- EWB's Whistleblower Policy.

Tracking, accountability and taking action:

- All incidents to be tracked by JHST Managers and Directors;
- All incidents to be reported to the HSW on a quarterly basis, and any significant incidents to be reported to the Board of Directors 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; and
- All follow up actions will be reported to and monitored by the Board of Directors, to ensure commitment and follow through on actions.

Reporting Acts of Sexual Misconduct to EWB

Where to report: any incidents should be reported to JHST using the [Incident Reporting Form](#). By default, this form is submitted to the Chair of the Board of Directors, and the Worker Health and Safety Representative. *If either of these parties is the subject of your report*, or you do not want them to view your report, you are encouraged to contact other members of the JHST, Management or the CEO directly instead. Your name or personal information will not be shared with anyone if you don't want to take the matter any further. These incidents will be reported to the HSW with all personal details omitted, to ensure all incidents are documented and preventative and/or remedial action can be taken.

What to report: all EWB Parties are required to report Sexual Misconduct if they are aware of it. The following information (if known) should be provided:

- Name of person who experienced the Sexual Misconduct;
- Name of Respondent or Accused;
- Date of the incident;
- Date of report;
- Location of the incident;
- Time of the incident;
- Category or categories of Sexual Misconduct experienced; and
- Thorough details of the incident (EWB fully recognizes that sexual subject matter can often be taboo or uncomfortable to speak plainly about, however it is important to be as explicit and straightforward as possible when writing a Sexual Misconduct report, in order to ensure the most appropriate and effective remedial actions are taken).

Who Must Report: all Parties with knowledge of unreported concerns relating to Sexual Misconduct are required to report such allegations using the [Incident Reporting Form](#), regardless of whether the subject of the Sexual Misconduct has or has not indicated they will report the incident. If they wish 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 Sexual Misconduct 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.

Response to Allegations of Sexual Misconduct

Immediate Response: upon notice of any concern regarding Sexual Misconduct, EWB will immediately assess the situation and respond, within 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 one day of the report.

Investigation Process for Matters involving EWB Parties as the Respondent or Accused: upon receipt of a report of Sexual Misconduct, EWB will conduct a preliminary assessment to determine the appropriate response. In making this determination, EWB may consider:

- the nature and seriousness of the allegation;
- the safety of any individuals involved;
- the availability of information sufficient to proceed;
- the wishes of the Complainant;
- whether there appears to be an ongoing risk to others; and
- any legal or regulatory obligations.

EWB reserves the right to initiate an investigation where it reasonably believes doing so is necessary to protect the safety of individuals or the greater EWB Community.

The decision-makers to assess whether to move forward to an investigation are: the HSW, Management and the CEO. 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 Sexual Misconduct 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 target of 60 days where reasonably practicable, although extensions may be appropriate in some matters. Investigations of allegations of Sexual Misconduct may be conducted by a trained member of the JHST 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.

Support Resources, Interim Measures & Remedies: EWB will take steps to prevent the recurrence of Sexual Misconduct through safety measures. To the extent reasonable and feasible, EWB will consult with the Complainant and determine 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; and
- training.

Potential Safety Measures in the Event of No Investigation: even if EWB decides not to confront the Respondent because of the Complainant's request for confidentiality, EWB may pursue other reasonable steps to limit the effects of the Sexual Misconduct 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.

Disciplinary & Corrective Action Processes: violations of this Policy will be addressed during the investigation. When violations are found, possible sanctions range from training to dismissal or 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 Sexual Misconduct. Exceptions to maintaining confidentiality are set by law; for example, physicians and nurses who treat any physical injury sustained during a sexual assault may be required to report it to law enforcement. Physicians, nurses, psychologists, psychiatrists, teachers and social workers must report a sexual assault committed against a minor.

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 Respondent or Accused. It is not always possible to provide confidentiality depending on the seriousness of the allegation and other factors, which will be weighed by HSW and Management, 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 Respondent or Accused committing additional acts of Sexual Misconduct or other violence, such as the Sexual Misconduct being perpetrated with a weapon.

EWB takes requests for confidentiality seriously while at the same time considering its responsibility to provide a safe environment for its Staff, Chapter Members, Fellows, Volunteers, Directors and Interns. EWB in such circumstances will make sure the Complainant is aware 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 charges 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 legal action at a later date. There is no statute of limitations on sexual assault charges in Canada.

To collect and preserve evidence of Sexual Misconduct, Complainants 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 Sexual Misconduct may be the subject of criminal prosecution.

Individuals experiencing Sexual Misconduct have the option to notify law enforcement. The JHST will assist individuals wishing to report a matter to law enforcement. A formal police report must be made before a criminal prosecution can be considered. The chances of successful prosecution are greater if the report to law enforcement is timely and is supported by the collection of medical-legal evidence (see “Medical-Legal Evidence Preservation” above). Complainants have the right to request that law enforcement implement an Emergency Protective Restraining Order.

Criminal charges typically have a greater standard of proof than this Policy, and are therefore not determinative of whether Sexual Misconduct, 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 decline to prosecute. Moreover, the filing of a complaint of Sexual Misconduct 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 other Parties. Both a criminal investigation and an EWB investigation involving the same incident(s) may occur simultaneously.

Education and Prevention

Active Bystander: EWB expects all Parties to be Active Bystanders against Sexual Misconduct. 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; and
- 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 the 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; and
- Call local law enforcement (911) or someone else in authority or yell for help.

Education and training

For Staff and Interns: Code of Conduct to be reviewed annually.

For 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.

For Chapter Members: all Chapter Members attending EWB Events have access to EWB's Policies and procedures. Chapter Members are also required to sign an Events Code of Conduct before attending any EWB convening event.

For Partners: all Partners must review and adhere to this Policy before engagement.

Other ways EWB proactively prevent incidents

Partnership Selection Process: during the recruitment and selection process for partner organizations to place Fellows, EWB commits to conducting due diligence around health, safety and wellness culture and practices in those organizations. In partner organizations that are hosting Fellows for the first time, EWB commits to gathering information during the placement to gain insight on the culture of the organization 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 one-on-one check-ins between Fellows and support staff.

Partner organizations sign Memoranda of Understanding before any Fellows are placed in their organizations, containing Policies and Terms of Reference they need to comply with as EWB-affiliated organizations, and that EWB has the right to terminate the partnership for breaches of certain Codes of Conduct.

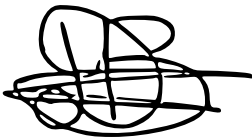
Recruitment of Staff and Fellows: EWB commits to screening Staff during the recruitment process to ensure they are effectively able to manage personal biases. This is especially important for in-country Staff that are responsible for providing necessary support to our Fellows. The Staff on the fellowships team are the first point of contact for many Fellows experiencing difficulties in the field, and therefore need to be approachable, unbiased and supportive. During the Fellow recruitment process, the first interview is an evaluation of alignment with EWB's values, Code of Conduct and safeguarding expectations to assess attitudes towards sexuality, sex and gender. Candidates must pass this interview before they are passed on to further screening.

Public Policy: This policy will be available on the EWB website. All partner organizations will be informed of this Policy, and will be expected to agree to the Policy before their engagement with

EWB. This also ensures that partner organizations know the standard that EWB sets for its Parties, and how to report any observed violations of this Policy.

Frivolous, Malicious, or Vexatious Complaints

EWB will not condone frivolous, malicious, or vexatious complaints. A person who makes a frivolous, malicious, or vexatious complaint will be subject to discipline. Victims of such allegations or complaints will receive appropriate advice, support, and assistance.



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