

SEXUAL HARASSMENT AND SEXUAL VIOLENCE POLICY & PROCEDURE

Purpose:

All employees and students of the College have a right to work and study in an environment that is free from any form of sexual harassment and/or sexual violence. This document outlines the College's policy and response protocol to sexual harassment and/or sexual violence and ensures those who experience sexual harassment and/or sexual violence are believed and their rights respected.

The College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual harassment and/or sexual violence accountable.

Policy Statement:

The College has zero tolerance for sexual harassment and/or sexual violence in all its forms. The College is expected to be a safe space where employees and students feel able to work, learn and express themselves in an environment free from sexual harassment and sexual violence. All reported incidents of sexual harassment and/or sexual violence will be appropriately investigated to the best of the administration's ability and in a manner that is fair and equitable.

Sexual harassment and/or sexual violence can occur between individuals regardless of sexual orientation, gender, and gender identity or relationship status as articulated in the Ontario Human Rights Code. The College is committed to creating a safe and positive space where all employees and students feel able to work, learn and express themselves in an environment free from sexual and gender-based harassment and/or violence.

Definitions:

Sexual Harassment:

Sexual harassment is any interaction between individuals, regardless of gender, that can be characterized as unwelcome sexual advances or misconduct. This includes but is not limited to:

- Requests for sexual favors;
- Verbal conduct of a sexual nature;
- Physical conduct of a sexual nature;
- Submission to sexual favours or conduct as being implied as a condition of an employee's employment or student's enrollment;
- Implying that rejection of sexual advances will affect employment decisions regarding that individual;
- Creating a sexually intimidating or offensive working environment; or
- Creating a sexually degrading, humiliating, or hostile work environment. (Generally, a single sexual joke, offensive epithet, or request for a date does not constitute a hostile environment of sexual harassment; however, being subjected to such jokes, epithets, or requests on more than one occasion may constitute a hostile environment of sexual harassment.)

Sexual Violence:

Sexual violence means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened, or

attempted against a person without the person's consent, and includes sexual harassment, stalking, indecent exposure, voyeurism, and sexual exploitation.

Consent:

The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes or no. This means that there must be an understandable exchange or affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity.

It is imperative that all understand the following additional information:

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person is incapable of giving consent if they are asleep, unconscious, incapacitated or otherwise unable to communicate.
- A person who has been threatened or coerced (e.g. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.
- A person who is drugged is unable to consent.
- A person may be unable to give consent when he/she is impaired by and/or under the influence of alcohol and/or drugs.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
- The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity.
- A person can withdraw consent at any time during the course of a sexual encounter.
- A person may be incapable of giving consent to a person in a position of trust, power or authority.
 - o Any sexual relationship between an employee and a student, where the employee teaches or has professional contact with the student as part of their employment responsibilities, is prohibited.
 - o Any sexual relationship between an employee with supervising responsibilities and an employee who reports to them, directly or indirectly, must be reported to their manager (includes Campus Director) and Human Resources who will work with the parties to address any potential conflict of interest.
- Consent cannot be given on behalf of another person.

Survivor:

Someone who has experienced sexual harassment or sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term 'victim'. The term survivor is used throughout this policy where relevant because some who have experienced sexual harassment or sexual violence believe they have overcome the violent experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

Application:

This policy applies to all individuals working for the College and studying at the College, including employees and students. Employees are considered front line employees, temporary employees, contract service providers, contractors, volunteers, all supervisory personnel, managers, or directors.

Any contractor, supplier, volunteer or visitor who attends on campus will be subject to complaints if they engage in prohibited conduct. Where a complaint against the respondent is substantiated, the College will take appropriate action.

Commitments:

- a) Assisting those who have experienced sexual harassment or sexual violence by providing choices, including detailed information and support, such as provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation.
- b) Ensuring that those who disclose they have been sexually harassed or experienced sexual violence are believed, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response.
- c) Addressing harmful attitudes and behaviours that reinforce that the person who experienced sexual harassment or sexual violence is somehow to blame for what happened.
- d) Treating individuals who disclose sexual harassment or sexual violence with compassion, recognizing that they are the final decision makers about their own best interests.
- e) Ensuring that internal investigation procedures are available in the case of sexual harassment or sexual violence, even when the individual chooses not to make a report to the police.
- f) Engaging in an appropriate investigation process that ensures fairness and due process.
- g) Contributing to the creation of a college atmosphere in which sexual harassment and sexual violence is not tolerated.
- h) Monitoring and updating our policies and procedures to ensure that they remain effective and in-line with other best practices.

Training, Reporting and Responding to Claims of Sexual Harassment and/or Sexual Violence

- a) The College will provide a copy of the Sexual Harassment and Sexual Violence Policy to all managers (including corporate directors, owners, partners, other persons who manage or direct the college's affairs, and their agents), instructors, employees, and contractors, and will train them about the policy and its processes of reporting, investigating, and responding to complaints of sexual harassment and/or sexual violence involving our students.
- b) Any company participating in offering student internships on their premises must provide an undertaking in writing that it is in compliance with all applicable legislation, including the Human Rights Code and the Health and Safety Act and will provide students access to those policies should they encounter issues relating to sexual harassment and/or sexual violence in the workplace.
- c) The Sexual Harassment and Sexual Violence Policy will be published on our website.
- d) Any College management, instructor, employee, contractor, and/or student will immediately report incidents of sexual harassment and/or sexual violence upon becoming aware of them.
- e) Any College management, instructor, employee, contractor, and/or student that has experienced sexual harassment and/or sexual violence are encouraged to come forward to report as soon as they are able to. Incidents should be reported to a manager (includes Campus Director), and/or the Director of Human Resources.
- f) If reported to a manager (includes Campus Director), all incidents will be escalated to the Director of Human Resources.
- g) Where the College becomes aware, or should be reasonably aware, of incidents of sexual harassment and/or sexual violence by a management member, instructor, employee, contractor, and/or student or against a management member, instructor, employee, contractor, and/or

student, on or off College property, the college will take all reasonable steps to ensure the safety of all employees and students.

- h) The College recognizes the right of the complainant not to report an incident of or make a complaint about sexual harassment and/or sexual violence or not request an investigation and not to participate in any investigation that may occur.
- i) Notwithstanding (h) above, where the College may be required by law or its internal policies to initiate an internal investigation and/or inform police without the complainant's consent if it believes the safety of members of its campus or the broader community is at risk.
- j) In all cases, including (h) above, the College will appropriately accommodate the needs of its employees and students who are affected by sexual harassment and/or sexual violence. Employees or students seeking accommodation should contact the local Campus Director or Director of Human Resources. In this regard the College will assist employees and/or students who have experienced sexual harassment and/or sexual violence in obtaining counselling and medical care, and provide them with information about sexual harassment and/or sexual violence supports and services available in the community. Employees and/or students are not required to file a formal complaint in order to access supports and services.

Complaint Process and Investigations

A complaint of sexual harassment and/or sexual violence can be brought forward under this policy by any employee or student. All formal complaints should be made in writing to the Director of Human Resources. The other officials, offices, or departments that may be involved in the investigation are the Executive Vice President, Regional Director of Operations and/or Campus Director.

Upon receipt of a report of an incident or a complaint of alleged sexual harassment and/or sexual violence being made, the Director of Human Resources will respond promptly and:

- (i) Determine whether an investigation should proceed and if the complainant wishes to participate in an investigation;
- (ii) Determine who should conduct the investigation having regard to the seriousness of the allegation and the parties involved;
- (iii) Determine whether the incident should be referred immediately to the police;
In such cases where civil proceedings are commenced in respect of allegations of sexual harassment and/or sexual violence, the College may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures; and
- (iv) Determine what interim measures ought to be put in place pending the investigation process such as removal of the respondent or seeking alternate methods of providing necessary course studies when involving a student.

The College will seek to achieve procedural fairness in dealing with all complaints. As such, no sanction and/or disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this policy. Respondents will be given details of the allegations and an opportunity to answer to the allegations.

If you have Experienced Sexual Harassment or Sexual Violence

Go to a safe place where you can find physical safety and support.

- a. Find a trusted friend or colleague.
- b. Call your local rape crisis line, if available.
- c. Go to or call your local sexual assault/domestic violence care centre if available.
- d. Call your local Police Service.

As an employee or student of the College you may be the first person to whom a survivor discloses about an act of sexual harassment and/or sexual violence. If you require support during this time you may contact a local campus director or human resources who will provide the guidance and information you may need. As the person hearing the disclosure you should not go beyond your own comfort level or expertise when responding to a disclosure. It is important to be supportive while referring survivors to the right person who can provide the help they need. You also need to know that receiving a disclosure can, itself, be traumatic and that supports are available to help you cope.

If you have received a report of an incident of sexual harassment and/or sexual violence

If an employee or student reports to you an incident of sexual harassment and/or sexual violence you need to immediately assess the situation and if you think the employee or student is at risk you must contact a local member of campus management (Campus Director) or human resources. The manager and/or human resources will provide an immediate response to safety concerns.

A member of human resources or local management will be the complaint manager. They will work with the employee or student to provide:

- (i) Immediate appropriate assistance and support.
- (ii) Explain the sexual harassment and sexual violence policy and procedure to the employee or student and provide them with all relevant materials.
- (iii) Human Resources and local campus management will work together to set up a safety plan for the survivor.
- (iv) Ask the survivor if they wish to report the incident to the police and if they wish to report, contact the local Police Services to arrange for them to come to the campus to take the report. The complaint manager will be with the employee or student when they meet with the police. The survivor also has the right to have a friend or advocate with them when they report to police.

If the survivor wishes to file an internal complaint the complaints manager, working with human resources, will provide the following assistance:

1. Explain the options available for dealing with the complaint; informal or formal – the complainant has the right to decide how they wish to address their complaint.
2. Ensure the survivor knows they have a right to have a support person with them throughout any process that may develop to address their complaint.
3. Explain how their complaint could be shared with other parties on a need to know basis only. We will limit the knowledge of the complaint to only those at the college who need to know in order to process the complaint or to assist in the investigation.
4. If the survivor decides to issue a formal written complaint, the complaints manager is available to assist, as required, in preparing and filing their internal complaint.
5. Once the complaint is written the complaints manager will contact human resources for assistance.

6. Interviewing the complainant to ensure a complete understanding of the allegation and gathering additional information that may not have been included in the written complaint such as the date and time of the incident, the persons involved, the names of any person who witnessed the incident and a complete description of what occurred.
7. Informing and interviewing the respondent of the complaint, providing details of the allegations and giving the Respondent an opportunity to respond to those allegations and to provide any witnesses the respondent feels are essential to the investigation. The respondent will be provided with a copy of the complaint, and any written response to the complaint received will be shared with the complainant within seven (7) working days.
8. Interviewing any persons involved or who have, or may have, knowledge of the incident and any identified witnesses.
9. Ensure the complainant and respondent are kept up-to-date on the progress of their complaint.
10. Timeline for investigation is 30 working days.
11. Ensure the complainant has a safety plan and knows who to call if they are approached by the alleged perpetrator.
12. Work with operations to put in place any interim measures necessary to alleviate pressure academically or emotionally on the employee or student.
13. Ensure that the internal complaint investigation is fair and follows due process and timeliness.
14. Upon completion of the investigation the complaints manager with support from human resources will:
 - (i) Review all of the evidence collected during the investigation;
 - (ii) Determine whether sexual harassment and/or sexual violence occurred; and if so
 - (iii) Determine what disciplinary action, if any, should be taken as set out in Section 8 below.

Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However, the College may continue to act on the issue identified in the complaint in order to comply with its obligation under this Policy and/or its legal obligations.

Disciplinary Measures

If it is determined by the College that the Respondent did engage in sexual harassment and/or sexual violence, immediate disciplinary or corrective action will be taken. This may include:

- (i) Disciplinary action up to and including termination of employment of instructors or staff; or
- (ii) Expulsion of a student; and/or
- (iii) The placement of certain restrictions on the respondent's ability to access certain premises or facilities; and/or
- (iv) Any other actions that may be appropriate in the circumstances.

Making False Statements

If a person, in good faith, discloses or files a sexual harassment and/or sexual violence complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed and no record will be placed in the complainant's or respondent's file.

Disclosures or complaints that are found following investigation to be frivolous, vexatious or bad faith complaints, that is, made to purposely annoy, embarrass or harm the respondent, may result in sanctions and/or discipline against the complainant.

Individuals who violate this Sexual Harassment and Sexual Violence Policy are subject to disciplinary and/or corrective action up to and including termination of employment of instructors or staff or expulsion of a student.

Protection from Reprisals, Retaliation or Threats

It is contrary to this policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:

- Having pursued rights under this Policy or the Human Rights Code;
- Having participated or co-operated in an investigation under this Policy or the Human Rights Code; or
- Having been associated with someone who has pursued rights under this Policy or the Human Rights Code.

Individuals who violate the Sexual Harassment and Sexual Violence Policy are subject to disciplinary and/or corrective action, up to and including termination of employment of instructors and staff or expulsion of a student.

Confidentiality

Confidentiality is particularly important to those who have disclosed sexual harassment and/or sexual violence concerns. The confidentiality of all persons involved in a report of sexual harassment and/or sexual violence must be strictly observed, and the College respects the confidentiality of all persons, including the complainant, respondent, and witnesses. Information provided by complainants is treated as confidential, but may be shared as is reasonably necessary to investigate the complaint and/or as may be required by the College's Policy and/or applicable law.

Confidentiality cannot be assured in the following circumstances:

- An individual is at imminent risk of self-harm;
- An individual is at imminent risk of harming another; and/or
- There are reasonable grounds to believe that others in the College's or greater community may be risk or harm.

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the survivor would not be released to the public.

Confidentiality will be maintained by:

- (i) Ensuring that all complaints/reports and information gathered as a result of the complaint/reports will be only available to those who need to know for the purposes of the investigation, implementing safety measures and other circumstances that arise from any given case; and

- (ii) Ensuring that the documentation is kept in a separate file from that of the complainant or the respondent.