

COLLEGE POLICY

Policy No. & Title:	P-105 Sexual Harassment & Sexual Violence Prevention
Policy Sponsor:	Director, People & Culture
Reference Cmtee:	Policy & Procedure Committee
Effective:	2022-01-27
Next Review:	2023-07-31

Purpose

College members have a right to work and study in an environment that is free from any form of sexual harassment and/or sexual violence. The College has zero tolerance for sexual harassment and/or sexual violence in all its forms.

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

Against this background, this policy seeks to establish the expectations and response protocol guidelines for College members regarding sexual harassment and/or sexual violence prevention and ensure those who experience sexual harassment and/or sexual violence are believed, and their rights are respected.

Scope

This policy applies to all College students, employees, delivery partners, affiliates, volunteers, and contractors.

Definitions

Sexual Harassment: Any interaction between individuals, regardless of gender, that can be characterized as unwelcome sexual advances or misconduct, including but 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

- 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: 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.

The following is to be noted:

- 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 a sexual encounter.
- A person may be incapable of giving consent to a person in a position of trust, power, or authority.
 - 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.
 - 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. The term is used throughout this policy where relevant to respect individuals who have experienced sexual harassment or sexual violence and 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.

College members: All individuals included in the scope of this Policy. May include both students and employees.

POLICY

Principles

- The College has zero tolerance for sexual harassment and/or sexual violence in all its forms.
- The College commits to:
 - Providing 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.
 - Investigating all reported incidents of sexual harassment and/or sexual violence to the best of the College's ability and in a manner that is fair and equitable.
 - Assisting those who have experienced sexual harassment or sexual violence by providing choices, including detailed information and support, such as the provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation.
 - 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.
 - Addressing harmful attitudes and behaviours that reinforce that the person who experienced sexual harassment or sexual violence is somehow to blame for what happened.
 - Treating individuals who disclose sexual harassment or sexual violence with compassion, recognizing that they are the final decision makers about their own best interests.
 - 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.
 - Engaging in an appropriate investigation process that ensures fairness and due process.
 - Contributing to the creation of a college atmosphere in which sexual harassment and sexual violence is not tolerated.

Application

- 1) The College will include a copy of the Sexual Harassment and Sexual Violence Prevention Policy in the Student & Employee Handbooks and will include a statement in every student enrollment contract made between the College and our students indicating where the student can find the policy for review; and the College will provide a copy of the Sexual Harassment and Sexual Violence Prevention 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.
- 2) 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 respective provincial Human Rights Code and the Occupational Health and Safety Acts and will provide students access to those policies should they encounter issues relating to sexual harassment and/or sexual violence in the workplace.
- 3) The Sexual Harassment and Sexual Violence Prevention Policy will be published on our website and the internal student website.
- 4) Any College member will immediately report incidents of sexual harassment and/or sexual violence upon becoming aware of them.
- 5) Any College member 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.
- 6) If reported to a manager (includes Campus Director), all incidents will be escalated to the Director of People & Culture.
- 7) Where the College becomes aware, or should be reasonably aware, of incidents of sexual harassment and/or sexual violence by a College member or against a College member on or off College property, the College will take all reasonable steps to ensure the safety of all College members.
- 8) If students, in good faith, report an incident of, or make a complaint about, sexual violence, they will not be subject to discipline or sanctions for violations of the College's policies relating to drug or alcohol use at the time the alleged sexual violence occurred.
- 9) 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.
- 10) Students who disclose their experience of sexual violence through reporting an incident of, making a complaint about, or accessing supports and services for sexual violence, will not be asked irrelevant questions during the investigation process by the College's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.
- 11) Notwithstanding the 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.

- 12) In all cases, including the above, the College will appropriately accommodate the needs of its members who are affected by sexual harassment and/or sexual violence. College members seeking accommodation should contact the local Campus Director or Director of Human Resources. In this regard, the College will assist individuals 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 as set out in **Appendix A** of the Procedure. Individuals are not required to file a formal complaint to access supports and services.

Framework

- 13) 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.
- 14) 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:
 - a) Disciplinary action up to and including termination of employment; or
 - b) Expulsion of a student; and/or
 - c) The placement of certain restrictions on the respondent's ability to access certain premises or facilities; and/or
 - d) Any other actions that may be appropriate in the circumstances.
- 15) Should the complainant or the respondent not agree with the decision resulting from the investigation, they may appeal the decision within seven (7) business days by submitting a letter addressed to the Director of Human Resources advising of the person's intent to appeal the decision.
- 16) 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.
- 17) 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.
- 18) Any threat or retaliation against individuals who engage in the administration of this policy and its procedures, including any investigation, shall not be tolerated. Any violation shall be subject to disciplinary and/or corrective action, up to and including termination or expulsion of a student.

19) The confidentiality of all persons involved in a report of sexual harassment and/or sexual violence must be strictly observed. 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 Policy and/or applicable law.

Confidentiality cannot be assured in the following circumstances:

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

20) The College shall collect and be prepared to provide upon request by the respective provincial Ministry/Department such data and information as required according to the respective Act(s), as amended.

Related Policies

P-103 Anti-Violence, Harassment & Discrimination

Supporting Documents/Forms

Ontario Human Right Act, 1990

New Brunswick Human Rights Act, 2011

Nova Scotia Human Rights Act, 1989

Amendment to O. Reg. 415/06 (General) under the Private Career Colleges Act, 2005 related to sexual violence policies

P-105p Sexual Harassment & Sexual Violence Prevention Procedure