

Sexual Violence Policy



**CANADIAN
BEAUTYCOLLEGE**

SEXUAL VIOLENCE POLICY

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All policies and procedures in this manual are subject to change at the discretion of Senior Management.

Sexual Violence Policy

Sexual Violence and Harassment in the Learning and Workplace Environment

Our goal is to maintain a learning environment and workplace that is free of violence and harassment. We will not tolerate any kind of violence or harassment towards our students and staff. We uphold the principles set out under Bill 132 known as the Sexual Violence and Harassment Action Plan 2015 and the Ontario Human Rights Code and the Canadian Charter of Rights and Freedoms. Should you have a harassment-related complaint, please do not hesitate to discuss it with the onsite Campus Manager.

The Canadian Beauty College seeks to provide a safe, healthy and rewarding learning environment for its students and staff. Sexual violence and harassment will not be tolerated. If you feel you are being sexually violated or harassed, you must tell someone.

Canadian Beauty College has developed a policy in accordance with the regulations under the Ontario Career Colleges Act, 2005. This policy is intended to prevent sexual violence and harassment of students and to deal quickly and effectively with any incident that may occur.

A copy of the Sexual Harassment Policy is given to each student within their enrollment contract and to each employee upon orientation of employment.

What is Sexual Violence and Harassment?

The new definition of sexual violence added to the Ontario Career Colleges Act, 2005 states: **“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 a person’s consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Sexual harassment is any unwelcome behavior that is sexual in nature. The Ontario Human Rights defines sexual harassment as follows:

“.... discrimination on the grounds of gender is a violation of the Individual’s Rights Protection Act. Unwanted sexual advances, unwanted requests for sexual favors, and other unwanted verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicit or implicitly a term or condition of an individual’s employment.
 2. Submission to or rejection of such conduct by an individual affect that individual’s employment.
- Sexual harassment is illegal...”

Sexual harassment can include such things as pinching, patting, rubbing or leering, dirty jokes, pictures or pornographic materials, comments, suggestions, requests or demands of a sexual nature. **The behavior need not be intentional to be considered harassment.** It is offensive and, in many cases, it intimidates others. It will not be tolerated within the college.

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Canadian Beauty College will take appropriate disciplinary action against any employee or student found to have initiated any form of sexual harassment. This disciplinary action could include suspension, dismissal, and notification to the appropriate authorities (Human Rights Commission or the police) and/or criminal charges.

Sexual misconduct by employees

“sexual misconduct” means, in relation to a student enrolled at a career college,

(a) physical sexual relations with the student, touching of a sexual nature of the student or behaviour or remarks of a sexual nature toward the student by an employee of the career college where,

(i) the act constitutes an offence under the *Criminal Code* (Canada),

(ii) the act infringes the right of the student under clause 7 (3) (a) of the *Human Rights Code* to be free from a sexual solicitation or advance, or

(iii) the act constitutes sexual misconduct as defined in the career college’s employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the career college respecting sexual relations between employees and students, or

(b) any conduct by an employee of the career college that infringes the right of the student under clause 7 (3) (b) of the *Human Rights Code* to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance. (“inconduite sexuelle”) 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Discharge or discipline

(2) If an employee of a career college commits an act of sexual misconduct toward a student enrolled at a career college, the career college may discharge or discipline the employee for that act, and,

(a) the discharge or disciplinary measure is deemed to be for just cause for all purposes;

(b) the employee is not entitled to notice of termination or termination pay or any other compensation or restitution as a result of the discharge or disciplinary measure; and

(c) despite subsection 48 (17) of the *Labour Relations Act, 1995*, and despite any provision of a collective agreement or employment contract specifying a penalty for the infraction, no arbitrator, arbitration board or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure imposed by the career college. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

No re-employment

(3) If an employee of a career college commits an act of sexual misconduct toward a student enrolled at a career college and the career college discharges the employee for that act or the employee resigns from their employment, the career college shall not subsequently re-employ the employee. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Same

(4) If a career college determines that it has re-employed an individual contrary to subsection (3), the career college shall discharge the employee, and clauses (2) (a) to (c) shall apply to the discharge. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

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Agreement

(5) Subject to subsection (6), an agreement between a career college and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 1 of Schedule 2 to the *Strengthening Post-secondary Institutions and Students Act, 2022* comes into force, shall not contain any term that, directly or indirectly, prohibits the career college or any person related to the career college from disclosing that an allegation or complaint has been made that an employee of the career college committed an act of sexual misconduct toward a student of the career college, and any such term that is included in an agreement is void. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Exception

(6) A career college may enter into an agreement that contains a term described in subsection (5) if the student requests that the career college do so, provided that,

- (a) the student has had a reasonable opportunity to receive independent legal advice;
- (b) there have been no undue attempts to influence the student with respect to the request;
- (c) the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and
- (d) the agreement is of a set and limited duration. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Contrary term, rule, etc.

(7) Subsections (2) to (6) apply despite any contrary term in an employment contract or collective agreement, or any contrary rule or principle of common law or equity. 2022, c. 22, Sched. 2, s. 1.

Responsibility of Management

It is the responsibility of the Campus Manager, or any person with this College who deals with students in an instructor or clinical supervisory role to take immediate and appropriate action to report or deal with incidents of sexual harassment whether brought to their attention or personally observed. Under no circumstances should a legitimate complaint be dismissed or downplayed or the complainant told to deal with it personally.

Management is responsible for the following:

1. Obtain a detailed description of the incident that is written and dated. Ensure there is no retaliation taking place on student's behalf, obtain legal counsel if required. Ask and provide resolution if available and satisfactory to the student. Treat the matter in a professional matter and take all situations seriously.
2. Conduct an investigation immediately after the report has been taken. Keep all reports confidential. Document as necessary and contact the authorities if appropriate.
3. Interview the Complainant. Obtain a complete account in writing of the incident

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that has taken place. Determine a problem-solving resolution. Determine any influences that may have occurred.

4. Interview the respondent or the accused. Ensure details are in writing and ask for any clarification as needed about the incident. Identify any reporting relations or hierarchical structures that need to be addressed. Report on timelines of the events. Assess any chance of a retaliation from the accused and document all details including any observations of verbal and nonverbal body language.

5. Interview any witnesses to the incident and document signed copies of any reports taken.

6. Resolve Complaint. This may include but is not limited to a transfer or altering schedules. Level of discipline should be determined based on the complaint. Review and revise the situation as needed and communicate the policy regularly. Keep all reports and complaints filed in a confidential manner. Follow up with parties involved of ongoing resolutions that need to be taken or addressed.

Canadian Beauty College will provide information to the superintendent concerning:

- the number of times supports, services, and accommodation relating to sexual violence are requested and obtained by students,
- any initiatives and programs to promote awareness of supports and services available to students,
- the number of incidents and complaints of sexual violence reported by students, and
- the implementation and effectiveness of its sexual violence policy.

The college will ensure that the information it provides to the Superintendent does not include personal information within the meaning of the Freedom of Information and Protection of Privacy Act.

Responsibility of Employees and Students

It is expected that you understand your rights and obligations under the Human Rights Code.

The Manager is responsible for employment awareness of this Sexual Harassment Policy through the delivery of educational sessions and materials distributed to all employees and students. Discussion of the Sexual Harassment Policy is outlined through our method of training sessions that include but are not limited to the following:

- new employee and student PowerPoint orientations
- manager and employee in depth training sessions
- senior management meetings
- health and safety meetings

This policy is reviewed at least once every three years by senior management and may be amended, if appropriate, by gathering input from employees and students.

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Employees or students experiencing or aware of any sexual harassment within the organization must report the situation, either directly or through a staff person. By following procedures outlined, within 24 hours of receiving a complaint, procedures described in the document will be initiated.

Under the law, the following scenarios are illegal:

1. When an employer, supervisor, colleague or co-worker bothers you with sexual remarks, jokes or touching.
2. When an employer, supervisor or colleague make sexual suggestions or requests.
3. When an employer or supervisor penalizes (or threatens to penalize) you if you refuse a sexual suggestion or request.

Sexual remarks, jokes, touching or requests are harassment if they are not wanted or welcomed by the employee or student. Even if the employee or student does not complain, there can still be harassment. The scenarios described above are unacceptable in a business environment under any circumstances. It will not be condoned and must be stopped immediately.

What Should You Do?

If you believe you are being or have been sexually harassed as described in this policy, it is very important that you follow the steps outlined below. In the majority of cases, offenders feel their behavior is harmless and may not realize the negative effect it is having on you. In many situations, once you communicate your position to the offender, the harassment will stop.

Procedures

1. Tell the person harassing you to stop. You can say, “I don’t appreciate that.” or “I don’t like that.”
2. If the person harassing you is a colleague or co-worker, you should also complain to your supervisor.
3. If the person harassing you is your supervisor, report it to his or her supervisor or to Head Office.
4. Keep a record of what happened. Include the time, date and place of each incident and note the name of a witness, if applicable.
5. If, after asking the offender to stop his/her behavior, the harassment continues, file a complaint (a letter or memo outlining the behavior and including your records) with one of the following individuals listed below. Do not wait too long, especially if you feel that you have made yourself clear to the offender.

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The sooner you take action, the sooner the harassment will be addressed and remedied.

- a) Instructor
 - b) Your direct Supervisor
 - c) Dean or Campus Manager
 - d) President
6. It should be noted that an internal complaint does not prevent an aggrieved party from filing a complaint with the Human Rights Commission. However, it should be noted that there is a **time limit of six (6) months** from the date of the offence in which to file a Human Rights Complaint.

Dealing with a Complaint

Please note that all complaints are assumed to have been filed in good faith.

1. Once a complaint is received, it will be taken seriously and will be kept confidential. An investigation will be undertaken immediately and all necessary steps taken to resolve the problem. Your complaint should include documentation to substantiate your complaint (i.e. your notes or records of the incidents). We will listen to your complaint and help you. If necessary, you can ask a colleague or friend to help you file the complaint.
2. The complainant and the alleged offender will both be interviewed along with any individuals who may be able to provide relevant information. All information will be kept in confidence.
3. If the investigation reveals evidence to support the complaint of sexual harassment, the harasser will be disciplined appropriately. Discipline may include suspension or dismissal, notification to the appropriate authorities (the Human Rights Commission and/or the Police) and/or criminal charges. The incident will be documented in the harasser's file. No documentation whatsoever will be placed in the complainant's file where the complaint is filed in good faith, where the complaint is upheld or not.
4. If the investigation fails to find evidence to support the complaint, there will be NO documentation concerning the complaint placed in the file of the alleged harasser.
5. Regardless of the outcome of a sexual harassment complaint made in good faith, the individual lodging the complaint, as well as anyone providing information, will be protected from any form of retaliation by either colleagues, co-workers or superiors. Retaliation may include, but is not limited to the following: demotion, unwanted transfer, denial of opportunities within the College, as well as harassment of the individual as a result of his/her having made a complaint or having provided evidence regarding the complaint. Individuals who participate in any form of retaliation will be subject to disciplinary action.
6. If students, in good faith, report an incident of, or make a complaint about, sexual violence,

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they will not be subject to discipline or sanctions for violations of the career college's policies relating to drug or alcohol use at the time the alleged sexual violence occurred.

7. 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 career college's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.

Disciplinary Action

Any action taken against the offender will be based on the circumstances surrounding the allegations of sexual harassment. Disciplinary measures taken will be influenced by a variety of factors such as persistence, severity of the behavior and the co-operation and willingness on the part of the offender to change his/her behavior. Management will impose the appropriate sanctions on the offender. If sexual harassment has been substantiated, the incident will be documented in the offender's administration file.

Depending on the circumstances of the complaint and the outcome of the investigation, disciplinary action will include but is not limited to one or more of the following actions:

- written reprimand and warning which may include recommendations for counseling
- suspension
- termination
- documentation forwarded to the Human Rights Commission and/or the Police
- criminal charges

It should be noted there is no cost to any individual, student or employee affected by sexual violence.

Appeals Process

Should the Complainant or the Respondent not agree with the decision resulting from the investigation, he or she may appeal the decision to the President within 10 days by submitting a letter addressed to the President advising of the person's intent to appeal the decision.

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Resources Available

Herizon House
Woman and Children
1-866-437-4066

Mississauga Halton Healthline.ca
c/o Mississauga Halton Community Care Access Centre
2655 North Sheridan Way Ste 140
Mississauga, ON L5K 2P8
310-2222
310-CCAC

Women's Support of York Region
1110 Stellar Drive Unit 109
Crisis 1-800-263-6734
www.womenssupportnetwork.ca

Resources Available do not need a formal report of an incident of sexual violence to access. Additional supports, services and or accommodations can be provided by the Campus Manager.