

Sexual Assault and Sexual Violence Policy

Policy Effective Date: Immediately

Approved by: Management

Review Date: October 17, 2023

Amended according to Amendment to O. Reg. 415/06 under the *Private Career Colleges Act, 2005* related to sexual violence policies to reflect the following changes:

1. 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 private career college's policies relating to drug or alcohol use at the time the alleged sexual violence occurred;
2. 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 private career college's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.

This policy applies to all members of the college including: All staff, faculty, students, contractors, suppliers, visitors, clients and volunteers.

This Sexual Assault and Sexual Violence Policy will be provided to every student at time of enrolment as well as to all faculty and staff. In addition, it will be posted on our corporate website as well as having a printed copy in the front reception area of the College.

We undertake to review this policy with our students and staff, every three years and amend it as appropriate.

1. Definitions

Sexual Assault: A criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

Sexual Violence: A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual abuse and sexual assault.

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 and no. This means that there must be an understandable exchange of affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- 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 or otherwise unable to communicate.
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.

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- A person who is drugged is unable to consent.
- A person is usually unable to give consent when 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.
- A person can withdraw consent at any time during the course of a sexual encounter.
- A person is incapable of giving consent to a person in a position of trust, power or authority, such as, a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to that position.
- Consent cannot be given on behalf of another person.

It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator's responsibility to know if the person they are engaging with sexually is a minor.

Note: For information purposes only, the Criminal Code defines "consent" as follows:

Consent: The voluntary agreement to engage in the sexual activity in question. No consent is obtained, where

- a) the agreement is expressed by the words or conduct of a person other than the complainant;
- b) the complainant is incapable of consenting to the activity;
- c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
- d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

2. Policy Statement

Sexual assault and sexual violence are unacceptable and will not be tolerated. We are committed to challenging and preventing sexual violence and creating a safe space for anyone in our College community who has experienced sexual violence. The College is expected to be a safe and positive space where members of the College community feel able to work, learn and express themselves in an environment free from sexual violence.

All reported incidents of sexual violence will be investigated to the best of the administration's ability and in a manner that ensures due process. It is this policy's intention to make individuals feel comfortable about making a report in good faith about sexual violence that they have experienced or witnessed.

We recognize that 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 (<https://www.ohrc.on.ca/en/tag/discrimination-type/harassment>). We also recognize that individuals who have experienced sexual violence may experience emotional, academic or other difficulties.

We are committed to:

- assisting those who have experienced sexual violence by providing choices, including detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic and other accommodation;
- ensuring that those who disclose that they have been sexually assaulted 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 (e.g., adhering to myths of sexual violence) that reinforce that the person who experienced sexual violence is somehow to blame for what happened;
- treating individuals who disclose sexual violence with compassion recognizing that they are the final decision-makers about their own best interests;

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- ensuring that on-campus (internal) investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police;
- engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with College policies, standards and applicable collective agreements, and that ensure fairness and due process;
- ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- engaging in public education and prevention activities;
- providing information to the College community about our sexual violence policies and protocols;
- providing appropriate education and training to the College community about responding to the disclosure of sexual violence;
- contributing to the creation of a campus atmosphere in which sexual violence is not tolerated; and
- monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

3. Reporting and Responding to Sexual Violence

Members of the College community should immediately report sexual violence incidents they witness or have knowledge of, or where they have reason to believe that sexual violence has occurred or may occur. Members who have experienced sexual violence are encouraged to come forward to report as soon as they are able to do so.

Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual violence from occurring.

Where the College becomes aware of incidents of sexual violence by a member of the College community or against a member of the College community, which occur on or off College property and that pose a risk to the safety of members of the College community, the College shall take all reasonable steps to ensure the safety of the College community.

4. Complaint Process and Investigations

A complaint of sexual assault or any other kind of sexual violence can be filed under this Policy by any member of the College community.

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 reasonable notice, with full detail of the allegations and provided with an opportunity to answer to the allegations made against them.

4.1. 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.

4.2. 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 Ontario Human Rights Code;
 - having participated or co-operated in an investigation under this Policy or the Ontario Human Rights Code; or
 - having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.
- Anyone engaged in such conduct may be subject to sanctions and/or discipline.

4.3. Unsubstantiated or Vexatious Complaints

If a person, in good faith, discloses or files a sexual violence complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed.

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.

5. Confidentiality

Confidentiality is particularly important to those who have disclosed sexual violence. The confidentiality of all persons involved in a report of sexual violence must be strictly observed, and the College does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses.

However, 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 or wider 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.

Where the College becomes aware of an allegation of sexual violence by a member of the College community against another member of the College community, the College may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with the College's legal obligation and/or its policies to investigate such allegations. In such cases, certain College administrators will be informed about the reported incident on a "need to know" and confidential basis, but not necessarily of the identities of the persons involved.

6. IF YOU HAVE EXPERIENCED OR HAVE BEEN AFFECTED BY SEXUAL VIOLENCE

- Go to a Safe Place.
- Find a trusted friend or colleague or speak with the Sexual Violence Response Advisor.
- Call the Toronto Rape Crisis Centre/ Multicultural Women Against Rape 416-597-8800.
- Go to or call the Sexual Assault/ Domestic Violence Care Centre Women's College Hospital 416-323-6040.
- Call the Toronto Police Services Division closest to you.

7. If You Have Experienced Sexual Violence

(a) If you have experienced sexual violence, please call Campus Support Supervisor Brian Little at 416-498-5565 ext. 145 and we will assist you by providing the resources and support you need.

(b) It is often difficult to disclose and report incidents of sexual violence. It is entirely up to you if you choose to report the incident; however, we strongly encourage you to do so. A number of other resources are available to you, including:

- Call the Toronto Rape Crisis Centre/ Multicultural Women Against Rape 416-597-8800.
- Go to or call the Sexual Assault/ Domestic Violence Care Centre Women's College Hospital 416-323-6040.
- Call the Toronto Police Services Division closest to you.

Anyone who has experienced sexual violence has the right to:

- be treated with dignity and respect, be believed,

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- be informed about on- and off-campus services and resources,
- decide whether or not to access available services and to choose those services they feel will be most beneficial,
- decide whether to report to campus security and/or local police,
- have an on-campus investigation with the institution's full cooperation,
- have a safety plan, and have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s).

(c) If You Would like to File a Formal Complaint

Campus Support Supervisor Brian Little can also assist you with filing a complaint. If the alleged perpetrator is another member of the College community, you may file a complaint under this Policy.

Individuals who have experienced sexual violence may also wish to press charges under the Criminal Code. Brian Little can also assist you with contacting the local Police.

More information on filing a complaint can be found at the Student Services Office.

(d) What to Do if You Witnessed Sexual Violence

If you witness sexual violence, please call Campus Support Supervisor Brian Little at 416-498-5565 ext. 145 and we will assist you by providing all the resources and necessary support.

A number of other resources are available to you, including:

- Call the Toronto Rape Crisis Centre/ Multicultural Women Against Rape 416-597-8800.
- Go to or call the Sexual Assault/ Domestic Violence Care Centre Women's College Hospital 416-323-6040.
- Call the Toronto Police Services Division closest to you.

(e) What to Do if Someone Discloses Allegations of Sexual Violence

A person may choose to confide in someone about an act of sexual violence, such as a student, instructor, or staff from housing, health, counselling or security. An individual who has experienced sexual violence may also disclose to staff or faculty members when seeking support and/or academic accommodation. A supportive response involves:

- listening without judgement and accepting the disclosure as true
- communicating that sexual violence is never the responsibility of the survivor
- helping the individual identify and/or access available on- or off-campus services, including emergency medical care and counselling;
- respecting the individual's right to choose the services they feel are most appropriate and to decide whether to report to the police;
- recognizing that disclosing can be traumatic and an individual's ability to recall the events may be limited;
- respecting the individual's choices as to what and how much they disclose about their experience; and
- making every effort to respect confidentiality and anonymity.

If disclosure is made to faculty or staff by a student seeking support or academic accommodation, the faculty or staff should refer the student to the, and work with the Chief Operations Officer to ensure that the student receives all necessary academic and other accommodations.

As indicated above, if faculty or staff of the College becomes aware of an allegation of sexual violence against another member of the College community, the faculty or staff is required to report the alleged incident to Chief Operations Officer immediately.

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(f) Communicating with Individuals who have Experienced Sexual Violence

Sensitive and timely communication with individuals who have experienced sexual violence and their family members (when an individual consents to this communication) is a central part of the College's first response to sexual violence. To facilitate communication the College will:

- Ensure that designated employees who are knowledgeable about sexual violence, are responsible for advocacy on campus on behalf of employees, students or any other member of the College community who have experienced sexual violence;
- Ensure designated employees respond in a prompt, compassionate, and personalized fashion; and
- Ensure that the person who has experienced sexual violence and the respondent are provided with reasonable updates about the status of the College's investigation of the incident when such investigations are undertaken.
- Roles and Responsibilities of the College Community While everyone on campus has a role to play in responding to incidents of sexual violence, some campus members will have specific responsibilities which might include:
 - On-campus health supports to provide psychological and emotional support, assist with safety planning and make referrals to other services, including medical services;
 - Faculty, staff and administrators to facilitate academic accommodations and other academic needs of those who have experienced sexual violence, e.g., extensions on assignments, continuing studies from home, and dropping courses;
 - Student operated sexual violence services to provide peer supports;
 - Human Resources to assist with any incidents relating to employees; and
 - Security to assist with investigations and gathering evidence, to implement measures to reduce sexual violence on campus, and to collaborate with local police where appropriate.

(g) How Will the College Respond to a Report of Sexual Violence?

Where a complaint of sexual violence has been reported to the College, the College will exercise care to protect and respect the rights of both the complainant and the respondent. The College understands that individuals who have experienced sexual violence may wish to control whether and how their experience will be dealt with by the police and/or the College. In most circumstances, the person will retain this control. However, in certain circumstances, the College may be required to initiate an internal investigation and/or inform the police of the need for a criminal investigation, even without the person's consent, if the College believes that the safety of other members of the College community is at risk. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

A report of sexual violence may also be referred to the police, or to other community resources at the complainant's request, where the persons involved are not members of the College community or in circumstances where the College is unable to initiate an internal investigation under this Policy.

8.1. Where the Respondent is a Student

Sexual violence is a violation of Upper Highland College of Business and Technology's policy. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences.

8.2. Where the Respondent is an Employee

Sexual violence is a violation of Upper Highland College of Business and Technology policy. Allegations against employees will be addressed in accordance with the procedures set out in this Policy, and in any applicable collective agreement, and/or other College policies. If the complaint is sustained following an

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investigation, the College will decide on the appropriate disciplinary actions consistent with any applicable collective agreement and/or policies regarding discipline.

8.3. Where the Respondent is not a Student or Employee

Contractors, suppliers, volunteers or visitors who attend 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.

All contractual relationships entered into by the College will be governed by a standard contract compliance clause stating that contractors must comply with this Policy and the Ontario Human Rights Code, including co-operating in investigations. Breach of the clause may result in penalties, cancellation, or other sanctions.

8.4. Multiple Proceedings

Where criminal and/or civil proceedings are commenced in respect of the allegations of sexual violence, the College shall conduct its own independent investigation into such allegations, and will make its own determination in accordance with its policies and procedures. Where there is an ongoing criminal investigation, the College will cooperate with the local police.

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9. Collection of Student Data

Upper Highland College of Business and Technology shall collect and be prepared to provide upon request by the Superintendent of Private Career Colleges such data and information as required according to **Subsections 32.1 (8), (9), (10) and (11) of Schedule 5 of the Private Career Colleges Act, 2005 as amended.**

10. Other Resources and Supports Available to You

The following represents a list of Provincial Rape Crisis Centres that could be provided as resources:

Assaulted Women's Helpline

1-866-863-0511; available 24 hours a day, in 200 languages www.awhl.org/

The Assaulted Women's Helpline serves as a free, anonymous and confidential 24-hour telephone and TTY crisis telephone line to all women in the province of Ontario who have experienced any form of abuse. They provide crisis counselling, safety planning, emotional support, information and referrals accessible 7 days a week, 365 days a year.

Central Toronto Youth Services (CTYS) - Pride & Prejudice

416-924-2100; <https://ctys.org/program/pride-prejudice/>

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P&P offers unique programs including individual and group counseling, for lesbian, gay, bisexual, trans, non-binary, queer and questioning youth, ages 13-24.

Chantel's Place

Trillium Health Centre 100 Queensway West, Mississauga
905-848-7580 ext. 2548; for counselling contact 905-848-7689; available 24 hours a day, via Trillium's Emergency Department <https://www.thp.ca/patientservices/womens/Chantels-Place>
Chantel's place is a partner in an Ontario network of sexual assault and domestic violence treatment centres. All services are free, and individuals can obtain a physical examination, an assessment and treatment of injuries, medication to prevent or limit the risk of contracting a sexually transmitted infection or HIV. Staff may also take forensic evidence such as photographs, in the event of abuse; the hospital may be able to provide some immediate and long-term counselling. A medical record is confidential.

David Kelley Counselling Programs

<https://familyservicetoronto.org/our-services/programs-and-services/david-kelley-services/>

The David Kelley Program offers two types of counselling services for Lesbian, Gay, Bisexual, Trans, and Queer folks (LGBTQ+). Options for counselling include the HIV/Aids Community Counselling Program and the Lesbian, Gay, Bisexual, Trans, Queer (LGBTQ+) Counselling Program. The David Kelley program also provides [Partner Assault Response](#) (PAR) services for court- and probation-mandated individuals charged with assault to a same-sex partner.

First Nations and Inuit Mental Health and Wellness

1-888-242-3310 or online chat at [Hope for Wellness](#); open 24 hours, 7 days a week
Provides immediate mental health counselling and crisis intervention to all Indigenous peoples across Canada.

Good2Talk

1-866-925-5454 or text GOOD2TALKON to 686868;
Available 24 hours a day, www.good2talk.ca/
Good2Talk is a free, confidential and anonymous helpline providing professional counselling and information and referrals for mental health, addictions and well-being to post-secondary students in Ontario.

Hope24/7

1-800-810-0180
Crisis Line is Available:
• Monday and Friday 9:00 am – 5:00 pm
• Tuesday and Wednesday 9:00 am – 8:00 pm
• Thursday 9:00 am – 6:00 pm

10 Gillingham Drive
Suite 6305, Brampton www.hope247.ca
Hope 24/7 is a charity organization offering psychotherapy services for folks 12 years old and over who have been impacted by relationship and sexual violence.

Native Women's Resource Centre of Toronto

416-963-9963
NWRCT is community based and offers culturally relevant services such as legal and health services.

Police Services – Emergency, Call 911

Toronto: 416-808-2222
York: 1-866-876-5423
Peel: 905-453-3311
Halton: 905-825-4777

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Support Services for Male Survivors of Sexual Abuse

1-866-887-0015; available 24 hours a day, 7 days a week

Immediate crisis and referral services in Ontario for male survivors of sexual abuse. Referrals to counselling, peer support, and other community agencies

Talk4Healing

1-855-554-HEAL (4325) or 2-1-1; available 24 hours a day, 7 days a week

Free and culturally safe telephone helpline for Indigenous women living in Ontario

Provides services in English, Ojibway, Oji-Cree, and Cree

The 519 Community Centre (Toronto)

416-392-6874

519 Church Street

Info@The519.org; www.the519.org/

The 519 has been committed to the health, happiness and full participation of the LGBTQ2S communities.

The agency utilizes a model of service, space and leadership to promote inclusion and respect.