



ONTARIO  
INSTITUTE of  
**HEALTH** and  
**INNOVATION**

# Sexual Violence and Misconduct

**Policy Number:** PC-PP-025

**Approved by:** Director, People and Culture

**Administrative Responsibility:** Director, People and Culture

**Effective Date:** July 9<sup>th</sup>, 2024

**Next Review Date:** May 1<sup>st</sup>, 2026

## 1. Background and Scope

- 1.1. This Policy applies when:
- 1.2. an incident of Sexual Violence and Misconduct is alleged to have occurred on Company property, or off Company property in connection with an event or activity sponsored by or under the auspices of the Company, and
- 1.3. the alleged Sexual Violence and Misconduct involves a member of the Ontario Institute of Health and Innovation Community, or a person who was a member of the Ontario Institute of Health and Innovation Community at the time of the incident.
- 1.4. If an incident of Sexual Violence and Misconduct does not meet the above criteria, the Company may still take steps to mitigate the impact of the incident on the working environment.
- 1.5. The Company does not have jurisdiction to take disciplinary action against a person who is not a member of the Ontario Institute of Health and Innovation Community or who is not currently affiliated with the Company. However, under certain circumstances the Company may be able to take other action, such as revoking a person's access to Company property or a Company event.
- 1.6. This Policy is separate from any criminal or civil proceedings or other available complaint processes. The Company is not responsible for determining violations of criminal or civil law.



## 2. Responsibility

The Director, People and Culture (HR) Human Resources has the responsibility for the administration of this Policy and the Procedure.

## 3. Definitions

- 3.1. “Accommodation”** is the process or action by which reasonable arrangements are made to support the employment, health, well-being, and safety needs of a member of the Ontario Institute of Health and Innovation Community impacted by sexual violence and misconduct.
- 3.2. “Age of Consent”** the age of consent is 16 years old in Canada.
- 3.3. “Alternative Resolution Process”** is an accountability process that is not investigative and that is intended to reconcile a Complainant and a Respondent. It includes, but not limited to, forms of mediation and restorative justice that promote reconciliation, settlement and understanding.
- 3.4. “Balance of Probabilities”** is the evidence that shows that the sexual violence and misconduct that has been reported is more likely to have occurred than not.
- 3.5. “Complainant”** is a person who files a Report. In some instances, the Company through the Director, People & Culture (HR) or respective Ontario Institute of Health and Innovation Institution’s designate may act as a Complainant where it becomes aware of allegations of Sexual Violence and Misconduct that, if true, would violate this Policy but no person comes forward with a Report, or where an investigation is required by law.
- 3.6. “Consent”** is a freely given voluntary agreement to engage or continue to engage in the sexual activity in question which must be affirmatively communicated through words or actively expressed through conduct. For the purposes of this Policy, Consent
  - 3.6.1.** is never assumed or implied,
  - 3.6.2.** is not silence, inaction or the absence of “no”,
  - 3.6.3.** cannot be given if the individual is incapacitated by alcohol or drugs, or is unconscious,
  - 3.6.4.** can never be obtained through threats or coercion,



- 3.6.5. can be withdrawn at any time,
  - 3.6.6. cannot be obtained if a party induces another to engage in sexual activity by abusing a position of trust, power or authority,
  - 3.6.7. given for one kind or instance of sexual activity does not mean that consent is given for any other sexual activity or instance, and
  - 3.6.8. cannot be expressed by the words of conduct of a third party,
  - 3.6.9. may not be implied from the relationship status of the parties nor from past consent to sexual activity.
  - 3.6.10. is not considered given if it involves a person in a power relationship with an employee or Ontario Institute of Health and Innovation institutions' student (line manager/employee).
  - 3.6.11. may not be proved by evidence of a person's sexual reputation or history of sexual activity.
- 3.7. **"Cyber-harassment or cyber-stalking"** is repeated, unsolicited, threatening behavior by a person or group using mobile or Internet technology with the intent to terrify, intimidate, humiliate, threaten, harass, or stalk someone else for a sexual purpose. May include: unsolicited posts and comments on social media sites, emails, texts, graphic images and posts directed at the survivor, or instant messaging.
- 3.8. **"Disciplinary Sanctions"** are the sanctions that may be imposed for violations of this Policy which are as follows:
- 3.8.1. Letter or reprimand
  - 3.8.2. Directed non-academic activity such as a 'no contact' direction or restricting participation in non-academic programs
  - 3.8.3. Loss of privileges or loss of use of Company facilities or assets for a temporary period or permanently
  - 3.8.4. Suspension
  - 3.8.5. Expulsion and termination
- 3.9. **"Director"** can be either



- 3.9.1.** the Director, People and Culture (HR) Human Resources, if the person making a Disclosure or filing a Report is an Employee, or
  - 3.9.2.** the Campus Director or Director of Student Services or any other Ontario Institute of Health and Innovation designate, if the person making a Disclosure or filing a Report is a student.
- 3.10.** **“Disclosure”** is the communication to a Company Employee of an experience of Sexual Violence and Misconduct. Disclosure on its own does not initiate an investigation, except where required by this Policy.
- 3.11.** **“Employee”** is an Employee of the Company.
- 3.12.** **“Indecent Exposure”** is exposing one’s body to another individual either physically or electronically, or through any other means, for a sexual purpose without the individual’s consent, or coercing another individual to remove their clothing in order to expose their body.
- 3.13.** **“Investigator”** is a person appointed by the Company to investigate a Report.
- 3.14.** **“Procedurally Fair”** is a process:
  - 3.14.1.** based on impartiality and absence of bias;
  - 3.14.2.** where the parties are informed of the allegations made against them;
  - 3.14.3.** that includes a meaningful opportunity to defend against such allegations, including the right to be given sufficient notice of interviews or meetings where they are expected to present evidence or their perspective on the facts or on evidence gathered as part of the process; and
  - 3.14.4.** leading to a decision that includes a sufficiently detailed explanation of the grounds on which it is based in such a way that the parties can understand the basis on which it is made.
- 3.15.** **“Report”** is a formal written report containing allegations of Sexual Violence and Misconduct or other violation(s) of this policy.
- 3.16.** **“Respondent(s)”** is a person or persons alleged to have engaged in conduct that violates this Policy.



- 3.17. “Responsible Administrator”** is the Director, People & Culture (HR) if the person making a Disclosure or filing a Report is an Employee and the respective Ontario Institute of Health and Innovation designate if the person making a Disclosure or filing a Report is a student from a Ontario Institute of Health and Innovation institution.
- 3.18. “Retaliatory Action”** is any adverse action or threatened action taken or made through any means, including through social or other electronic media, against a person who is, in good faith, seeking redress or who is otherwise engaged in a process under this Policy, or who is associated with such a person. Retaliation includes threatening, intimidating, or harassing conduct that could discourage a person from seeking support or other services, disclosing or reporting Sexual Violence and Misconduct, participating in an investigation, or otherwise engaging with this Policy.
- 3.19. “Sexual Exploitation”** is abuse or exploitation of another person’s sexuality without consent, for the perpetrators own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation include:
- 3.19.1.** causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over that person;
  - 3.19.2.** causing the prostitution of another person;
  - 3.19.3.** electronically recording, photographing, or transmitting intimate or sexual utterances, sounds or images of another person;
  - 3.19.4.** allowing third parties to observe sexual acts;
  - 3.19.5.** distributing intimate or sexual information about another person;
  - 3.19.6.** knowingly transmitting a sexually transmitted infection, including HIV, to another person
- 3.20. “Sexual Harassment”** is a comment, act or representation of a sexual nature, including sexual advances, requests for sexual favours, suggestive comments or gestures, or physical contact by a person who knows, or ought reasonably to



know, that the conduct or comment is unwanted or unwelcome. The behavior interferes with another person's participation in a Company-related activity; or leads to or implies employment or academically related consequences for the person harassed; or creates an intimidating, humiliating or hostile environment. Examples of sexual harassment include, but are not limited to the following acts:

- 3.20.1.** Demanding a hug, date or sexual contact.
- 3.20.2.** Unwanted touching.
- 3.20.3.** Use of derogatory language, sex-and/or gender-specific derogatory names, and/or comments related to a person's sexual appearance, characteristics, or behavior.
- 3.20.4.** Sexual jokes, including sexual jokes or offensive sexual material circulated by email.
- 3.20.5.** Spreading sexual rumours.
- 3.20.6.** Bragging about sexual prowess.
- 3.20.7.** Distributing and/or displaying sexually explicit images of self or others to a person who has not consented to being a recipient of the images.
- 3.20.8.** Unwanted questions about sexual history.

**3.21. "Sexual Violence and Misconduct"** is any sexual act, or act targeting a person's sexuality, gender identity, or gender expression, whether the act is physical or psychological in nature, which is committed, threatened or attempted against a person without the person's Consent, including but not limited to:

- 3.21.1.1. sexual assault.
- 3.21.1.2. sexual exploitation.
- 3.21.1.3. sexual harassment.
- 3.21.2.** stalking.
- 3.21.3.** cyber-harassment or cyber-stalking.
- 3.21.4.** Stealthing



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- 3.21.5.** indecent exposure.
- 3.21.6.** voyeurism.
- 3.21.7.** the distribution of an image, photograph, or video of a person of a sexual nature without the consent of that person.
- 3.21.8.** the attempt to commit an act of Sexual Violence and Misconduct; or
- 3.21.9.** the threat to commit an act of Sexual Violence and Misconduct.

**3.22.** **“Sexual Misconduct”** means, in relation to a student enrolled at Ontario Institute of Health and Innovation,

- 3.22.1.** 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 Ontario Institute of Health and Innovation where
  - 3.22.1.1. the act constitutes an offence under the Criminal Code (Canada),
  - 3.22.1.2. 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
  - 3.22.1.3. 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
- 3.22.2.** 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.

**3.23.** **“Stalking”** are behaviours that occur on more than one occasion, which collectively instill fear in the person who has been victimized or threaten a person’s safety or mental health. These behaviours include but are not limited to:



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- 3.23.1.** non-consensual communications (face to face, phone, email, social media);
- 3.23.2.** threatening harm to the person being stalked and/or to family, friends, or pets;
- 3.23.3.** vandalizing property;
- 3.23.4.** showing up uninvited to the person's home or workplace or place of study;
- 3.23.5.** surveillance;
- 3.23.6.** sending unsolicited gifts.
- 3.24.** **"Stealthing"** is the act of removing a condom during sex without consent.
- 3.25.** **"Student"** is a person who is enrolled as a student at one of the Company's Institutions.
- 3.26.** **"Voyeurism"** is non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing, or recording is done for a sexual purpose.
- 3.27.** **"Young Person"** is a person who is under the age of 19 years.

## 4. Policy Statement

- 4.1.** Ontario Institute of Health and Innovation (the "Company") is committed to providing a safe working environment that allows for full and free participation of all members of the Ontario Institute of Health and Innovation Community. Sexual Violence and Misconduct undermines these objectives and violates the fundamental rights, personal dignity, and integrity of individuals.
- 4.2.** Sexual Violence and Misconduct is strictly prohibited under this Policy.
- 4.3.** A breach of this Policy by a member of the Ontario Institute of Health and Innovation community constitutes misconduct and may be cause for disciplinary sanctions including, where appropriate, suspension, dismissal, or expulsion.





- 4.4.** The Company recognizes its responsibility to increase awareness of Sexual Violence and Misconduct, to prevent its occurrence within the Ontario Institute of Health and Innovation Community, to support persons impacted by Sexual Violence and Misconduct, to provide procedures to handle Disclosures and Reports, and to remedy situations where Sexual Violence and Misconduct has been found to have occurred.
- 4.5.** The Company is committed to addressing Sexual Violence and Misconduct by:
  - 4.5.1.** implementing and actively promoting awareness and training programs to educate the Ontario Institute of Health and Innovation Community regarding Sexual Violence and Misconduct and the issues addressed in this Policy;
  - 4.5.2.** promoting working and learning conditions that seek to eliminate the potential for incidents of Sexual Violence and Misconduct to occur within the Company's facilities or operations;
  - 4.5.3.** reducing barriers to Disclosing and filing Reports regarding Sexual Violence and Misconduct;
  - 4.5.4.** responding to Disclosures and Reports in a procedurally fair, efficient and consistent manner;
  - 4.5.5.** supporting members of the Ontario Institute of Health and Innovation Community who are impacted by Sexual Violence and Misconduct, through academic, non-academic, and other supports as required; and
  - 4.5.6.** communicating the support services and the resources available to members of the Ontario Institute of Health and Innovation Community who may be directly or indirectly impacted by Sexual Violence and Misconduct.
- 4.6.** All persons who Disclose or file a Report regarding an experience of Sexual Violence and Misconduct can expect from the Company:
  - 4.6.1.** to be treated with compassion, dignity, and respect;
  - 4.6.2.** to be respected in their choice as to whether they wish to Disclose or



file a Report regarding their experience;

- 4.6.3.** timely assistance with safety planning;
- 4.6.4.** timely information about available support services and resources;
- 4.6.5.** discussion of appropriate academic, workplace or other accommodations;
- 4.6.6.** to be advised of the options for addressing an incident of Sexual Violence and Misconduct, and the limits to confidentiality associated with each option;
- 4.6.7.** if they decide to file a Report, a clear explanation of the investigation and decision process, a timely, procedurally fair, and unbiased process, and regular updates on the status of the process; and
- 4.6.8.** that reasons will be provided for decisions made throughout the process.

**4.7.** All persons who are accused of violating this Policy can expect from the Company:

- 4.7.1.** to be treated with compassion, dignity, and respect;
- 4.7.2.** timely information about available support services and resources;
- 4.7.3.** to be advised of the options available to them;
- 4.7.4.** if a Report is filed, a clear explanation of the investigation and decision process, a timely, procedurally fair, and unbiased process, and regular updates on the status of the process; and
- 4.7.5.** that reasons will be provided for decisions made throughout the process.

**4.8.** The Company strongly encourages all members of the Ontario Institute of Health and Innovation Community to become knowledgeable about Sexual Violence and Misconduct and their rights and obligations under this Policy and the Procedure.

**4.9.** The Company reserves the right to initiate an investigation and/or to inform the relevant law enforcement agency without the consent of the person



Disclosing or filing a Report regarding an incident of Sexual Violence and Misconduct, if the Company has a reasonable belief that the safety of a member of the Ontario Institute of Health and Innovation Community is at risk; for example: when repeated allegations have been made about the conduct of the same person; where such action is required by law; or when there is publicly displayed evidence of Sexual Violence and Misconduct having occurred such as in a video posted on social media.

**4.10.** The Company may accept a Report of Sexual Violence and Misconduct that is anonymous or made by a third party. Such Reports may be investigated where they contain sufficient evidence. When such a Report identifies a Member of the Ontario Institute of Health and Innovation Community as the survivor of Sexual Violence and Misconduct that person has the right to be informed about the Report and may choose whether to participate in an investigation of that Report.

**4.11.** A member of the Ontario Institute of Health and Innovation Community may have the right to pursue other processes external to the Company in connection with alleged Sexual Violence and Misconduct, such as reporting the matter to the police, initiating a civil action, or filing a complaint under applicable human rights or employment standards legislation.

## **5. Sexual Misconduct by Employees as per regulations u/s. 32.0.1, of the OCC Act 2005, S.O. 2005,c. 28, Sched. L**

**5.1. “Sexual Misconduct”** means, in relation to a student enrolled at Ontario Institute of Health and Innovation,

- 5.1.1.** 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 Ontario Institute of Health and Innovation where,
- 5.1.2.** the act constitutes an offence under the Criminal Code (Canada),
- 5.1.3.** 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
- 5.1.4.** 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

- 5.1.5.** 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.

## **5.2. Discharge or discipline**

- 5.2.1.** If an employee of Ontario Institute of Health and Innovation commits an act of sexual misconduct toward a student enrolled at Ontario Institute of Health and Innovation the career college may discharge or discipline the employee for that act, and,
- 5.2.2.** the discharge or disciplinary measure is deemed to be for just cause for all purposes;
- 5.2.3.** 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
- 5.2.4.** 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 college. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

## **5.3. No Re-employment**

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

- 5.3.2.** If Ontario Institute of Health and Innovation determines that it has re-employed an individual contrary to subsection (2.3), the college shall discharge the employee, and clauses (2.2) (a) to (d) shall apply to the discharge. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

## 6. Procedure

### 6.1. Prevention and Response Program

- 6.1.1.** The Company will establish and maintain a Sexual Violence and Misconduct Prevention and Response Program, that will include but not be limited to the following elements:
- 6.1.1.1. Conducting institutional risk assessment of current policy compliance and prioritizing any identified risk mitigation strategies for the Company
  - 6.1.1.2. providing mandatory education and training to the Company Community regarding the Policy.
  - 6.1.1.3. establishing procedures for reporting, investigating, and documenting incidents of Sexual Violence and Misconduct in a prompt and confidential manner and in accordance with provincial legislation and regulations, where applicable.
  - 6.1.1.4. notifying members of the Ontario Institute of Health and Innovation Community who may be exposed to a known risk of Sexual Violence and Misconduct, of the nature and extent of the risk.
  - 6.1.1.5. providing appropriate support or referrals to members of the Ontario Institute of Health and Innovation Community who Disclose or file a Report under the Policy.
  - 6.1.1.6. ensuring that appropriate corrective actions are taken in response to incidents of sexual violence and misconduct; and
  - 6.1.1.7. conducting regular reviews to evaluate the effectiveness of



the Policy and this Procedure, with reviews occurring every year.

## **6.2. Accommodation and Safety Planning**

- 6.2.1.** A member of the Ontario Institute of Health and Innovation Community who wishes to create a safety plan, or request workplace, academic or other accommodations, arising from an incident of sexual violence and misconduct may contact:
  - 6.2.1.1. The Director, People and Culture (HR), if the person seeking such support is an Employee, or
  - 6.2.1.2. The Director, Student Services, or Campus Director if the person seeking such support, is a Student.
- 6.2.2.** Appropriate supports and reasonable accommodations will be made available and may include:
  - 6.2.2.1. safety planning and safety measures
  - 6.2.2.2. academic and workplace accommodations
  - 6.2.2.3. class or work schedule changes
  - 6.2.2.4. assistance with finding financial aid, and/or
  - 6.2.2.5. other appropriate supports

## **6.3. Disclosure of Sexual Violence or Misconduct**

- 6.3.1.** A member of the Ontario Institute of Health and Innovation Community who has experienced sexual violence and misconduct may choose to disclose the experience by confiding in another member of the Ontario Institute of Health and Innovation Community. When a member of the Ontario Institute of Health and Innovation Community receives a disclosure of Sexual Violence or Misconduct from a Student, they should respond to the student in the manner described in Appendix A.
- 6.3.2.** The Company encourages, but does not require, members of the Ontario Institute of Health and Innovation Community who have experienced Sexual Violence and Misconduct to seek immediate



assistance. Seeking assistance promptly may be important to ensure physical safety, to obtain medical care or emotional support, or to preserve evidence.

**6.3.3.** A Disclosure is not the same as a Report under the Policy and does not normally serve to initiate an investigation or other process. To initiate an investigation, a Report must be filed with the Director.

**6.3.4.** A member of the Ontario Institute of Health and Innovation Community who receives a Disclosure of Sexual Violence and Misconduct must notify the Director, or Campus Security (for any circumstances on campus), if any of the following circumstances apply:

- 6.3.4.1. A person is at risk of self-harm or of harming others
- 6.3.4.2. There is an imminent risk of harm to the Ontario Institute of Health and Innovation Community and/or the broader community
- 6.3.4.3. The Disclosure involves sexual harassment in a Company workplace
- 6.3.4.4. A Young Person (as defined in the Policy) is involved or affected, or
- 6.3.4.5. Disclosure is otherwise required by law

**6.3.5.** In these instances, the minimum amount of information needed to meet legal or other obligations will be disclosed, and every effort will be made to involve the person making the Disclosure in decision-making and to mitigate any associated risks. Any Ontario Institute of Health and Innovation Community member who is unsure about their responsibility to disclose should seek advice from the Director.

**6.3.6.** The decision to Disclose and the decision to Report are separate decisions. An individual may elect to Disclose without filing a Report. Consequently, a Disclosure may not result in a Report and does not necessitate the initiation of an investigation or other actions by the Company should the individual choose to Disclose without filing a Report.



#### **6.4. Reports of Sexual Violence and Misconduct or Other Violations of the Policy**

- 6.4.1.** A member of the Ontario Institute of Health and Innovation Community who has experienced Sexual Violence and Misconduct, or who is otherwise affected by a violation of the Policy, may file a Report under the Policy by submitting a Report in writing to the Director.
- 6.4.2.** The Report should set out the relevant details regarding the alleged Sexual Violence and Misconduct, or other alleged violation of the Policy. The Report should include a list of any potential witnesses, along with a description of the information those witnesses are expected to provide. Any relevant documents, including any social media or digital communications, should also be included with the Report.
- 6.4.3.** A Complainant has the right to withdraw a Report at any stage of the process. However, the Company may continue to act on the issue identified in the Report to comply with its obligations under law or the Policy.

#### **6.5. Initial Review**

- 6.5.1.** Upon receipt of a Report, the Director will conduct an initial review to determine whether the allegations in the Report fall within the Company's jurisdiction to investigate under the Policy. This review will occur within 14 calendar days of receiving a Report unless exceptional circumstances exist that prevent the Director from meeting this timeline, in which case they will contact the individual making the Report as soon as possible to inform them of the revised timeline.
- 6.5.2.** If the Director determines that the Report falls within the Company's jurisdiction to investigate under the Policy, they will do one of the following:
  - 6.5.2.1.** appoint an Investigator to investigate the Report; or
  - 6.5.2.2.** refer the matter to the alternative resolution process described in section 7.





- 6.5.3.** If the Director determines that the allegations in the Report do not fall within the Company's jurisdiction to investigate under the Policy, they will advise the individual making the Report of this decision along with reasons. If the Director believes that the Report discloses other kinds of misconduct or information that the Company may need to act on under another Company policy or process, they may refer the Report or the relevant portions of the Report to the appropriate Company authority. The Director will consult with the person making the Report before referring it elsewhere.

## **6.6. Alternative Resolution Process**

- 6.6.1.** If the Director believes that an alternative resolution process may be appropriate in the circumstances, they will discuss this option with the Complainant. If the Complainant agrees that an alternative resolution process may be appropriate, the Director will contact the Respondent to advise them that a Report has been made and will discuss this option with the Respondent. If the Respondent agrees to participate in an alternative resolution process and the Director is satisfied that an alternative resolution process is appropriate, then the Director will explore the options available and, with the agreement of both parties, will refer the matter to that process for resolution.
- 6.6.2.** Participation in an alternative resolution process is entirely voluntary. If either the Complainant or the Respondent decides they no longer wish to participate in the alternative resolution process at any time, then the Director will appoint an Investigator to investigate the Report.
- 6.6.3.** An alternative resolution process may include, but is not limited to, coordination or facilitation of one or more of the following:
- 6.6.3.1. A separate meeting with the persons involved to review their concerns.
  - 6.6.3.2. A joint meeting with the persons involved to facilitate a conversation aimed at understanding and resolving their



concerns

- 6.6.3.3. A review of needs and expectations with persons involved to clarify and reinforce expectations of appropriate conduct
- 6.6.3.4. Training, mentoring, or coaching to enhance understanding of appropriate conduct.
- 6.6.3.5. Achieving agreement between the persons involved concerning future conduct and/or
- 6.6.3.6. Follow-up measures with the persons involved after the conclusion of the alternate resolution process to ensure any agreements made are sustained.

- 6.6.4.** If the alternative resolution process results in an agreement between the persons involved, it shall be recorded in writing and signed by them.

## **6.7. Investigation**

- 6.7.1.** An Investigator appointed to investigate a Report will have prior experience or training in sexual violence investigations.
- 6.7.2.** The Investigator will advise participants in the investigation process of the option to have a support person present for interviews.
- 6.7.3.** Except in exceptional circumstances, investigations (including the preparation of the Investigator's report) will be completed within 60 calendar days of the Investigator's receipt of the Report. If during the course of the investigation the Investigator believes that this timeline cannot be met, the Investigator will contact the Complainant, the Respondent, and the Director as soon as possible to inform them of the revised timeline.
- 6.7.4.** Investigations are not adversarial processes, and hearings will not be held as part of the investigatory process. Formal rules of evidence commonly associated with a civil or criminal trial will not be applied.
- 6.7.5.** In all investigations, the Respondent will be informed of the allegations made against them and will be given a full opportunity



to respond.

**6.7.6.** The Investigator will conduct the investigation in a procedurally fair manner, using a process determined by the Investigator. The investigation process may include, but is not limited to, the following:

- 6.7.6.1. requesting a written response to the Report from the Respondent, including a list of any potential witnesses along with a description of the information those witnesses are expected to provide, and any relevant documents, including any social media communications.
- 6.7.6.2. meeting with or requesting further information from the Complainant.
- 6.7.6.3. meeting with or requesting further information from the Respondent.
- 6.7.6.4. meeting with or requesting further information from any other individuals who may have information relevant to the investigation, including any witnesses identified by the Complainant or the Respondent.
- 6.7.6.5. inviting the Complainant and the Respondent to submit questions they believe should be asked of the other party or any witness, provided that the decision as to whether such questions will actually be asked of the other party or a witness is entirely within the discretion of the Investigator; and
- 6.7.6.6. obtaining any other evidence that may be relevant to the investigation.

**6.7.7.** At the completion of the investigation, the Investigator will submit a written Report to the Director. The Investigator's Report will include the following information:

- 6.7.7.1. a description of the allegations



- 6.7.7.2. a description of the investigation process; a summary of the evidence considered; an analysis of the evidence including any assessment of credibility that is required to decide; and
- 6.7.7.3. the Investigator's findings of fact, and a determination as to whether, on a balance of probabilities, the Policy has been violated in respect of each allegation.

## **6.8. Investigational Outcomes**

- 6.8.1.** If the Investigator's Report determines that Sexual Violence and Misconduct has occurred, or that the Policy has otherwise been violated, the following will occur:
  - 6.8.1.1. the Director will provide a copy of the Investigator's Report to the Responsible Administrator
  - 6.8.1.2. the Responsible Administrator will determine what disciplinary sanctions or other measures are appropriate based on the findings in the Report and may recommend suspension or expulsion of a Student or suspension or termination of employment of an Employee to the CEO.
  - 6.8.1.3. the Complainant and the Respondent will be notified of the outcome
  - 6.8.1.4. the Respondent will be notified of the option to appeal, as described below
- 6.8.2.** In addition to disciplinary outcomes, the Company may require workshops and/or mediation for the Parties or other members of the Ontario Institute of Health and Innovation Community in the environment affected by the Report or Investigation.
- 6.8.3.** If the Investigator's Report determines that that the Policy has not been violated, the Director will dismiss the Report and so notify the Complainant and the Respondent. The Complainant will be notified



of the option to appeal, as described below.

- 6.8.4.** Whether or not the Investigator's Report determines that Sexual Violence and Misconduct has occurred, or that the Policy has otherwise been violated, if the Director believes that the Investigator's Report discloses other kinds of misconduct or information that the Company may need to act on under another Company policy or process, they may refer the Investigator's Report, or the relevant portions of the Report, to the appropriate Company authority. When appropriate, the Director will consult with the person making the Report before referring it elsewhere.

## **6.9. Confidentiality**

- 6.9.1.** Confidentiality of all persons and information involved in a Disclosure or Report of Sexual Violence and Misconduct is expected.
- 6.9.2.** To protect the integrity, fairness, and effectiveness of investigations and to ensure compliance with the privacy legislation, all participants in an investigation must act in accordance with the requirements set out below.
- 6.9.3.** Individuals, including the Complainant and the Respondent, who have obtained personal information about an identifiable individual through their participation in an investigation must not disclose this information to anybody except their own personal advisors or representatives, or as required by law. However, this section does not prevent:
- 6.9.3.1. any participants in an investigation from disclosing information about themselves, or information that they have obtained outside the investigation; or
  - 6.9.3.2. Company representatives from disclosing investigation-related information as authorized under the Policy.
- 6.9.4.** The Company will not disclose any personal information related to an investigation except to the extent such disclosure is:
- 6.9.4.1. expressly authorized by the affected individual



- 6.9.4.1.1. to a Company representative, if necessary, for the performance of that individual's duties
- 6.9.4.1.2. to a Complainant, Respondent, witness, or other participant in the investigation, if necessary, for the conduct of the investigation
- 6.9.4.1.3. authorized by the Policy, or
- 6.9.4.1.4. authorized or required under la

**6.9.5.** Information may also be shared where:

- 6.9.5.1. an individual is at imminent risk of self-harm
- 6.9.5.2. an individual is at imminent risk of harming another, or
- 6.9.5.3. there are reasonable grounds to believe that others in the Company Community or wider community may be at risk of harm

**6.9.6.** To maintain the integrity of the investigation process, the Company must ensure that both Complainants and Respondents know the investigation findings.

**6.9.7.** Under applicable privacy legislation, the Company is only authorized to disclose disciplinary actions it has taken against a Respondent if the disclosure is authorized by the Company for compelling health or safety reasons. The Company will normally inform a Complainant of any relevant restrictions that have been imposed upon the Respondent's movements or activities.

**6.10. Retaliatory Action, Breaches of Confidentiality, and Frivolous or Vexatious Reports**

**6.10.1.** Retaliatory Action of any kind is prohibited. This includes Retaliatory Action against a person who Discloses or files a Report regarding Sexual Violence and Misconduct, against witnesses, or against any other persons involved in the process.

**6.10.2.** Where a member of the Ontario Institute of Health and Innovation



Community is found to have engaged in Retaliatory Action, or to have breached the confidentiality requirements in the Policy, the Company may take appropriate disciplinary action.

- 6.10.3.** Where an investigation determines that a Report was frivolous, vexatious or vindictive in nature, the Company may take appropriate disciplinary action.

## **6.11. Appeal**

- 6.11.1.** A Complainant or Respondent may appeal the decision of the Responsible Administrator to the President. A Company Employee who has been suspended or terminated from employment by the President and a Student who has been suspended or expelled by the President or other Institutional Head has a right of appeal to the Company's Executives.
- 6.11.2.** The appeal must be submitted in writing within ten (10) business days of the decision being received by the Complainant/Respondent, and must state specific grounds for the appeal which will be limited to:
- 6.11.2.1. how the Policy was incorrectly applied,
  - 6.11.2.2. how due process was not followed, or
  - 6.11.2.3. how the severity of the sanction was disproportionate to the nature of the violation of the Policy.
- 6.11.3.** The appeal will not reconsider the original Report unless the person or body deciding the appeal finds that relevant evidence has become available that was not available at the time of the original decision and there is a strong probability that such evidence would have a significant effect on the decision.
- 6.11.4.** The appeal may be upheld or dismissed, in whole or in part, and/or referred back to the Responsible Administrator for reconsideration.
- 6.11.5.** The person or body deciding the appeal will give reasons for their decision in writing.



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## 7. Other

- 7.1. The Company will conduct regular reviews to evaluate the effectiveness of this Policy, with reviews occurring at least once every three (3) years, or as otherwise required by law.
  - 7.2. The Company reserves the right to amend or update this Policy from time to time at its sole discretion.
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## Appendix A

### **Disclosure of Sexual Violence or Misconduct by a Member of the Ontario Institute of Health and Innovation Community**

The purpose of this Appendix is to provide advice and guidance to a member of the Ontario Institute of Health and Innovation Community who is approached by someone who wishes to disclose an incident of Sexual Violence or Misconduct.

The member(s) should:

1. Respond in a manner that demonstrates compassion and respect.
2. Refrain from asking questions or making comments that imply judgment or blaming such as questions about dress, conduct, language, emotional disposition, past sexual history, or consumption of alcohol or drugs.
3. Listen empathically and without judgement or interruption and avoid personal advice.
4. Validate their experience or reactions and reassure them that they are not responsible for the other person's actions.
5. Ask them what can be done to support them.
6. Help them to identify safe individuals within their existing support system and review their current safety





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7. Provide information about on-campus and off-campus resources, as appropriate.
8. Encourage them to seek medical attention and counselling support, while respecting their right to choose the services they believe will benefit them the most, including any decision to notify the police.
9. Refer to the Director, People and Culture (HR) Human Resources and/or Director of Student Affairs & Services if accommodations or support services are needed.
10. Inform them of their right to make a formal Report and explain the length of time that an investigation and disciplinary process may take.
11. Do not promise, or agree to conduct, or commence to conduct an investigation into any incident or incidents.
12. Do not call the police unless they specifically ask you to do so.

### **Related Legislations:**

1. Ontario Career Colleges Act, 2005
2. Human Rights Code R.S.O. 1990
3. Criminal Code (Canada)
4. Occupational Health and Safety Act (OHSA), R.S.O 1990
5. Freedom of Information and Protection of Privacy Act
6. Personal Information Protection and Electronic Documents Act (PIPEDA)