

## SEXUAL ASSAULT AND SEXUAL VIOLENCE POLICY

This Policy applies to all members of the College community including: employees, students, instructors, contractors, suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors. This policy is a guide only. The Criminal Code R.S.C., 1985 c. C-46, and the Ontario Human Rights Code take precedence, and should be referred to in all cases.

### 1. Definitions

#### Sexual Assault and Sexual Violence

**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:

1. Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
2. A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.
3. 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.
4. A person who is drugged is unable to consent
5. A person is usually unable to give consent when under the influence of alcohol and/or drugs.
6. A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
7. 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.
8. A person can withdraw consent at any time during the course of a sexual encounter.
9. 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 report to that position.
10. 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.

### **Other Relevant Terms**

**Acquaintance sexual assault:** Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

**Age of consent for sexual activity:** The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve- and 13-year-olds can consent to have sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than 5 years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

**Coercion:** In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

**Drug-facilitated sexual assault:** The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

**Stalking:** A form of criminal harassment prohibited by the Criminal Code of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear in the victim or threaten the victim/target’s safety or mental health. Stalking can also include threats of harm to the target’s friends and/or family. These behaviours include, but are not limited to non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; “creeping” via social media/cyber-stalking; and uttering threats.

**Survivor:** Some who have experienced sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term “victim”. We use the term “survivor” throughout this policy where relevant because some who have experienced sexual assault 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.

## **2. Purpose and Intent of the Policy**

All members of the College community have a right to a work and study in an environment that is free from any form of sexual violence. This document sets out our policy and response protocol to sexual violence and ensures that those who experience sexual violence are believed and their rights respected, that the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual violence accountable.

## **3. 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. We also recognize that individuals who have experienced sexual violence may experience emotional, academic or other difficulties.

The College is committed to:

3.1. 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.

Contact the College to obtain support and services, and to accommodate the needs of students who are affected by sexual violence.

Ms. Manjot Saron, Campus Manager, TAHA College of Beauty, Business, Health & Technology,  
2210 Markham Road, Unit 2, Scarborough, ON M1B 5V6 E-mail: [info@tahacollege.ca](mailto:info@tahacollege.ca)  
Tel: 416-609-3500.

3.2. 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;

3.3. 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);

3.4. Treating individuals who disclose sexual violence with compassion recognizing that they are the final decision-makers about their own best interests;

3.5. 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;

3.6. Engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with College policies, standards, and applicable collective agreements, that ensure fairness and due process;

- 3.7. Ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- 3.8. Engaging in public education and prevention activities;
- 3.9. Providing information to the College community about our sexual violence policies and protocol;
- 3.10. Providing appropriate education and training to the College community about responding to the disclosure of sexual violence;
- 3.11. Contributing to the creation of a campus atmosphere in which sexual violence is not tolerated; and,
- 3.12. Monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

#### **4. Reporting and Responding to Sexual Violence**

4.1. Members of the College community should immediately report sexual violence incidents they witness or have knowledge of, or where they 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.

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Tel: 416-609-3500.

4.2. 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.

4.3. 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.

4.4 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; the College will still provide you with any accommodation that you need. The College does not charge a fee for consultation and/or referrals.

You will always have an opportunity during the meetings and consultations with the College, to have another person present or another person make the oral presentation on your behalf at all stages of the process.

#### **5. 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.

### **5.1 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.

### **5.2 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:

1. Having pursued rights under this Policy or the Ontario Human Rights Code;
2. Having participated or co-operated in an investigation under this Policy or the Ontario Human Rights Code; or
3. 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.

### **5.3 Addressing Complaints**

A victim may choose to confide in anyone about an act of sexual violence – a student, professor, instructor, teaching assistant, coach, or staff from housing, health, counselling or security. Everyone on campus will have access to basic information on how to provide a compassionate and reassuring response.

Process for responding to and addressing incidents and complaints of sexual violence involving students:

Step 1: The “first responder” at the College is the Campus Manager.

The Campus Manager will provide information about campus and community services that are immediately available.

The Campus Manager will:

- Listen without judgement and will accept the disclosure as true.
- Understand that communicating about sexual violence is never the responsibility of the victim.
- Help the survivor identify and/or access available on- or off-campus services, including emergency medical care.
- Respect the survivor’s right to choose the services they feel are most appropriate and to decide whether to report to police.
- Recognize that disclosure can be traumatic and a survivor’s ability to recall the events may be limited.
- Respect the survivor’s choices as to what and how much they disclose about their experience
- Make every effort to respect confidentiality and anonymity.

Step 2: The Campus Manager’s primary functions will also include:

- Helping the victim decide whether to formally report the incident. This will include an explanation of the criminal justice system proceedings or the institution’s disciplinary process. See the Student Complaint Procedure Form, issued to you at registration, or ask the Campus Manager for a copy of the Form, and the Complete a Student Complaint Form.
- Helping the victim develop a safety plan.
- Providing referrals to counselling, peer groups and other campus and community services.
- Supporting a requested change in residence or campus housing.
- Facilitating academic considerations, such as extensions on assignments, a request to drop a class or continue studies from home.

- If requested, the Campus Manager may also assist the survivor in contacting family members or friends.

Step 3: The Campus Manager may also:

- Conduct internal investigations to gather evidence and present findings to the appropriate adjudication body. In some circumstances, the investigation can only be pursued by a bona fide police service.
- Follow or implement measures to manage the alleged perpetrator while an investigation is taking place. This may be done with the guidance of the local police service.
- Put in place measures to protect the victim, where possible, from the alleged perpetrator (for example, “no contact orders”). Cooperate with local police in their investigations.

#### **5.4 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.

### **6. 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:

1. an individual is at imminent risk of self-harm;
2. an individual is at imminent risk of harming another; and/or
3. 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.

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.

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.



## 7. Cross References to Other Policies and/or Legal Requirements

Private Career Colleges Act 2005: <https://www.ontario.ca/laws/statute/05p28>

Private Career Colleges Act 2005, Regulations 415/06: <https://www.ontario.ca/laws/regulation/060415>

The Student's Handbook Available at the Front Desk or from the Campus Manager

The Criminal Code R.S.C., 1985 c. C-46: [laws-lois.justice.gc.ca/eng/acts/C-46/](https://laws-lois.justice.gc.ca/eng/acts/C-46/)

The Ontario Human Rights Code: <https://www.ontario.ca/laws/statute/90h19>

Occupational Health and Safety Act: <https://www.ontario.ca/laws/statute/90o01>

Ontario Network of Sexual Assault/Domestic Violence Treatment Centres at 76 Grenville Street, Toronto, ON M5S 1B2, Tel. (416) 323-7327

## SEXUAL ASSAULT AND SEXUAL VIOLENCE PROTOCOL

### If You Have Experienced Sexual Violence

If you have experienced sexual violence, please immediately contact:

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Tel: 416-609-3500.

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

Student Resources Location	Resource	Telephone
All	Good2Talk – Ontario Post-Secondary Student Helpline	1-866-925-5454
Toronto	Toronto Rape Crisis Centre	(416) 597-8808
York	Women's Support Network of York Region	1-800-263-6734 905-895-7313
Peel	Hope 24/7: Sexual Assault Centre of Peel	1-800-810-0180
Durham	Durham Rape Crisis Centre	905-668-9200

### You can contact a Sexual Assault/Domestic Violence Treatment Centre

Sexual Assault/Domestic Violence Treatment Centres in Ontario are hospital-based centres that provide 24/7 emergency care to women, children and men who have been sexually assaulted or who are victims or survivors of domestic violence (intimate partner) abuse. Services include:

- Emergency medical care
- Crisis intervention
- Collection of forensic evidence
- Access to emergency contraception and preventative treatment for sexually-transmitted infections
- Medical follow-up
- Counselling
- Referral to community resources.



You can choose to have centre staff conduct a physical examination, offer medical care and/or collect any physical (forensic) evidence of a recent sexual assault. It is your decision whether you wish to report the assault to the police or provide the forensic evidence. If you think you were drugged and sexually assaulted, Sexual Assault/Domestic Violence Treatment Centres can also test to determine the presence of drugs in your body.

To contact the Sexual Assault/Domestic Violence Treatment Centre in Ontario nearest you, contact:  
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Please note that this Policy will be updated as required, or reviewed and amended if necessary at least once every three years.