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<b>Admin. Contacts:</b>	Director, Centre for Human Rights, Equity & Diversity
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## **Employees' Sexual Assault and Sexual Violence Procedure**

### **Purpose:**

The purpose of this procedure is to assist employees of the Humber College Institute of Technology and Advanced Learning and the University of Guelph-Humber (hereafter referred to as "Humber" or the "College") community in knowing how and where to report any incident of sexual assault and sexual violence, to highlight resources available to assist employees both on and off campus, and to encourage reporting of sexual assault and sexual violence.

The procedure outlines the step by step process involved in the resolution of all incidents of sexual assault and sexual violence for employees and the responsibility of Humber in the resolution process of complaints related to sexual assault and sexual violence.

All reported incidents of sexual assault and sexual violence will be investigated to the best of Humber's ability and in a manner that ensures due process for all parties involved i.e. complainant/s, respondent/s and witness/es.

Investigations into reported incidents of sexual assault and sexual violence will proceed to Step 4 of the investigation procedure outlined below.

**This document is available in alternate format on request.**

### **Definitions:**

See Appendix A.

### **Procedures:**

#### **1. If you Have Experienced or Have Been Affected by Sexual Assault and Sexual Violence on Humber property**

As an employee if you have experienced or have been affected by sexual assault and sexual violence on Humber's property or in relation to Humber activities, it is entirely up to you if you choose to report the incident(s); however you are strongly encouraged to do so. If you need assistance please follow the steps outlined below:

### **Step 1- Immediate Response**

If you have experienced sexual assault and sexual violence on Humber's property:

- i. Go to a safe place, including your work site, the Department of Public Safety or your home.
- ii. For immediate support by telephone:
  1. Hope 24/7 for the Region of Peel: 1-800-810-0180; or
  2. Toronto Rape Crisis Centre/Multicultural Women Against Rape: 416-597-8808
  3. Police 911
- iii. Seek medical attention if necessary. Go to your local emergency room that has a domestic violence and sexual assault care centre such as: [Chantal's Place at Trillium Health Centre](#), [Women's College Hospital](#), or a local hospital in your region.
- iv. Seek out counselling and other supports.

### **Step 2 - Options for Follow-up**

It is often difficult to disclose and report incidents of sexual assault and 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 resources on campus are available to explore next steps for employees based on their comfort level such as:

- Department of Public Safety
- Your Manager/Supervisor
- Human Resources Business Partner or Human Resources Manager
- Union Representative
- The Director of Centre for Human Rights, Equity and Diversity
- Health and Safety Manager

Anyone who has experienced sexual assault and sexual violence has the right to:

- be treated non-judgmentally, in a supportive manner, with empathetic and unconditional regard and respect;
- be believed;
- 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 the Department of Public Safety and/or local police;
- have an on-campus investigation with the college's full co-operation;
- meet with their Human Resources representative and/or the Department of Public Safety to develop a plan of action in order to better equip oneself to deal with a situation that potentially puts the employees safety at risk;
- have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s); and
- have interpreters available for accessible services such as American Sign Language, and/or lingual interpretation services for those for whom English is a second language.

### **Step 3 - Filing a report**

#### **Informal Report**

Informal Reports help the College community to have an informed understanding of occurrences and needs within its community. Reports assist to create a safer environment for everyone. If you disclose an incident of sexual assault and sexual violence to any College employee, they have to report to the Department of Public Safety; however, you can remain anonymous. (Please see Section 5 of this document if you have received a disclosure of sexual assault and sexual violence).

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 are at risk. In such instances, action will be taken, respecting confidentiality as outlined in the Sexual Assault and Sexual Violence Policy.

#### **Formal Report**

If you would like to make a formal report of having experienced sexual assault and sexual violence, call:

- i. The Department of Public Safety at 416-675-6622 ext. 8500
- ii. Director, Centre for Human Rights, Equity and Diversity at 416-675-6622 ext. 4425

You may wish to bring a supportive person with you, this may be a friend, family member or colleague.

#### **Formal Police report**

Employees who have experienced sexual assault and sexual violence may also wish to pursue charges under the *Criminal Code of Canada*. If you wish to pursue charges, the Department of Public Safety can assist you with contacting the local police line. You may make both a formal college report as well as a formal police report.

### **Step 4 - Investigating the Complaint Formal Investigation**

If and when the complainant decides to proceed to Step 4, the Director, Centre for Human Rights, Equity and Diversity shall meet with the complainant and upon a disclosure and report of sexual assault and/or sexual violence the Director, Centre for Human Rights, Equity and Diversity shall:

- refer the matter to the Department of Public Safety to investigate;
- where appropriate, external/independent investigative resources may be engaged to conduct the investigation on behalf of the College; and
- inform the Human Resources representative of the employee.

The Human Resources Representative will enable the employee to:

- secure supports and accommodation ; if relevant
- take measures to prevent ongoing contact between the complainant and the respondent, especially if the respondent is an employee.

The process for managing the investigative findings provided by the Department of Public Safety will be determined by the applicable policy and procedure.

## **2. Where the Respondent is a Student**

Sexual assault and sexual violence is a violation of the Code of Student Conduct. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences. Please see the Code of Student Conduct <http://www.humber.ca/policies/code-student-conduct> for more details on the Code process

### **2.1 Where the Respondent is an Employee**

Sexual assault and sexual violence is a violation of the Workplace Violence Prevention Policy & Procedure and the Human Rights Policy & Procedure. Allegations against employees will be addressed in accordance with the procedures set out in the applicable Policy, and in any applicable collective agreement, and/or in any other College policies. If the complaint is sustained following an investigation, the College will decide on the appropriate disciplinary actions consistent with any applicable collective agreement, policies and/or procedures regarding discipline.

### **2.2 Where the Respondent is not a Student or an Employee**

Contractors, suppliers, volunteers or visitors who attend on campus or are involved in college related activities 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. Incidents of this nature should be reported to the Department of Public Safety.

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

## **3. How will the College respond to a report of Sexual Assault and Sexual Violence**

Where a complaint of sexual assault and 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. Except as otherwise stated, the College provides those whose rights, privileges or interests may be affected by a decision with notice of the decision to be made, disclosure of facts relevant to the decision and an opportunity to be heard. The College may decide how it meets these obligations in different circumstances, and will do so with a view to providing a fair process, making a sound decision and preserving the dignity of survivors. The College has the right to withhold disclosure early on its process to obtain a person's independent recollection of events.

The College understands that individuals who have experienced sexual assault and 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 assault and 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; in circumstances where the College is unable to initiate an internal investigation or if the College believes that the safety of other members of the College community is at risk.

Humber College is committed to:

- assisting those who are affected by sexual assault and 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 employment and other accommodation;
- ensuring that those who disclose they have been sexually assaulted are treated with dignity and respect and are supported throughout the process of disclosure, investigation and institutional response;
- addressing harmful attitudes and behaviours that blame the person who has experienced and/or is affected by sexual assault and sexual violence;
- treating individuals who disclose sexual assault and sexual violence with compassion, recognizing that their sense of control over their physical and sexual integrity is compromised through no fault of their own;
- ensuring that on-campus (internal) investigation procedures are available in the case of sexual assault and sexual violence;
- engaging in appropriate procedures for investigation and adjudication of a complaint that are in accordance with College policies, standards and applicable collective agreements to ensure fairness and due process;
- ensuring coordination and confidential communication among the various departments who are most likely to be involved in the response to sexual assault and sexual violence on campus;
- engaging in education and prevention activities in the College community including on how to respond to the disclosure of sexual assault and sexual violence;
- providing information to the College community about our sexual assault and sexual violence policies and protocol;
- contributing to the creation of a campus environment in which sexual assault and 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.

#### **4. Roles and Responsibilities of the College Community**

While everyone on campus has a role to play in responding to incidents of sexual assault and sexual violence, some campus members will have specific responsibilities which might include:

- Human Resources to assist with any incidents relating to employees, especially related to accommodation and provisioning of resources;
- The Department of Public Safety to assist with investigations and gathering evidence, to implement measures to reduce sexual assault and sexual violence on campus and collaborate with local police where appropriate; and
- Centre for Human Rights, Equity and Diversity may have a facilitative resource function.

When a disclosure and/or a report of sexual assault and sexual violence is made by an employee, regardless of whether it is investigated or not, the employee may require accommodation. Accommodations will be provided in compliance with Humber's Accommodation Policy.

## **5. What to do if you have witnessed Sexual Assault and Sexual Violence**

If you witness sexual assault and sexual violence, please call the Department of Public Safety at 416.675.6622 extension 8500 and they will assist you by providing resources and necessary supports. If you want to speak to someone directly, please go to the Department of Public Safety at:

- North Campus – NX101
- Lakeshore Campus –M203

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

- Centre for Human Rights, Equity and Diversity – 416.675.6622 ext. 4425
- Health and Safety Manager – 416.675.6622 ext. 5673

If a member of faculty or staff of the College becomes aware of an allegation of sexual assault and sexual violence against another member of the College community, the faculty or staff is required to notify the alleged incident to one of the following:

- Department of Public Safety (Security)
- Police Services
- Supervisor/Manager
- Human Resources Business Partner or Human Resources Client Services Manager
- Health & Safety Services
- Deans & Directors
- Centre for Human Rights, Equity & Diversity
- Union Representative

Faculty and staff will operate within the limitations outlined in Section 4: "Confidentiality" of the Sexual Assault and Sexual Violence Policy

## **6. What to do if someone discloses allegations of Sexual Assault and Sexual Violence**

- 6.1. Responses to disclosures of sexual assault and sexual violence must be non-judgemental, supportive, empathetic and with unconditional regard and respect.
- 6.2. Members who have experienced sexual assault and sexual violence are encouraged to come forward to report as soon as they are able to do so and to the avenue that they feel most comfortable to report.
- 6.3. Persons in a position of authority, including persons having responsible charge over the activities of others, shall take immediate action to respond to or to prevent sexual assault and sexual violence from occurring. Employees who witness or receive disclosures of sexual assault and sexual violence are required to notify one of the following:
  - Department of Public Safety (Security)
  - Police Services

- Supervisor/Manager
  - Human Resources Business Partner or Human Resources Client Services Manager
  - Health & Safety Services
  - Deans & Directors
  - Centre for Human Rights, Equity & Diversity
- 6.4. The College takes the failure to report and/or to take action seriously when it affects the safety of people.
- 6.5. Where the college becomes aware of incidents of sexual assault and 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.
- 6.6. A report of sexual assault and 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.

## **7. Right to Withdraw a Complaint**

A complainant has the right to withdraw a complaint at any stage of the process. The College understands that individuals who have experienced sexual assault and 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, if the College believes that the safety of other members of the College community is at risk, the College may be required to initiate an internal investigation and/or inform the police of the need for a criminal investigation, even when the survivor has exercised their right to withdraw a complaint. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

## **8. Protection for Reprisals, Retaliation or Threats**

It is contrary to this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant, respondent or other individuals who exercise their rights under this policy for:

- having pursued rights under this Policy, the *Ontario Human Rights Code*; the *Occupational Health and Safety Act*, and/or under the *Criminal Code of Canada*
- having participated or co-operated in an investigation under this Policy or the *Ontario Human Rights Code*; and/or
- having been associated with someone who has pursued rights under this Policy; the *Ontario Human Rights Code*; and/or the *Occupational Health and Safety Act*.

Anyone engaged in such conduct may be subject to sanctions and/or discipline.

## **9. Vexatious Complaints**

Following an investigation, disclosures or complaints that are found to be frivolous, vexatious or made in bad faith, may result in sanctions and/or discipline against the complainant.

## 10. Multiple Proceedings

Where criminal and/or civil proceedings are commenced in respect of the allegations of sexual assault and sexual violence, the College shall conduct its own independent and concurrent 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.

## 11. Timeliness

Timelines set out in this procedure are subject to extension by the College official who is the prime decision maker in the step in which the extension is requested. However, extensions will be granted only in circumstances where the request for the extension is made in good faith and for extenuating circumstances and where there would be no prejudice to the other party or the College.

## 12. Confidentiality

Confidentiality is important to those who have disclosed sexual assault and sexual violence. The confidentiality of all persons involved in a report of sexual assault and sexual violence must be strictly observed, and the

College will do 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 service areas/departments to prevent harm, and the name of the survivor would not be released to the public.

The nature of complaint investigation precludes anonymity, hence confidentiality has limitations in the investigation processes. However, due diligence shall be exercised to protect the rights of the complainant, respondents and witnesses.

Where the College becomes aware of an allegation of sexual assault and sexual violence by a member of the College community against another member of the College community, the College may also be obliged 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, specific 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.

All information collected as a result of a report made under the policy and procedure will be managed in accordance with the *Freedom of Information and Protection of Privacy Act* and *Personal Health Information Protection Act* as applicable.

**References:**

[Humber's Human Rights Policy](#)

[Ontario Human Rights Code](#)

[Freedom of Information and Protection of Privacy Act](#)

[It's Never Okay: An Action Plan to Stop sexual Violence and Harassment – March 2015](#)

**Appendices:**

Appendix A: Definitions

Appendix B: Reporting Procedures: Sexual Assault and Sexual Violence Flowchart

## Appendix A

*Sexual violence*: 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 the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. Sexual violence is about power and control, not about sexual desire.

Anyone, regardless of race, age, disability, gender identity, gender expression, or sexual orientation can experience and be affected by sexual violence. Sexual violence impacts the well-being of individuals and communities.

*Sexual assault*: Sexual assault is a form of sexual violence and is 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 that person and involves a range of behaviours from any unwanted touching to penetration.

*Sexual harassment*: Sexual Harassment is a form of sexual violence prohibited by the Ontario Human Rights Code (Code). Sexual harassment is defined as a course of vexatious comment or conduct based on an individual's sex and gender that is known or ought to be known as unwelcome. Under Ontario's Occupational Health and Safety Act (OHS), workplace harassment has been expanded to include sexual harassment:

- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity (including transgender) or gender expression, where the course of comments or conduct is known or ought reasonably to be known to be unwelcome, or
- Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Gender-based harassment is a subset of sexual harassment and prohibited by the Code. It refers to behaviours that regulate and reinforce traditional heterosexual gender norms.

Sexual harassment includes, but is not limited to the following:

- Any deliberate and unsolicited sexual comment, the use of overt sexual language, suggestion or physical contact that creates an uncomfortable learning/working environment for the recipient and is made by a person who knows or ought reasonably to know that such action is unwelcome;
- A sexual advance or solicitation made by a person to another, where the person making the advance or solicitation knows or ought reasonably to know that it is unwelcome;
- A reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person;
- Unwelcome remarks, jokes, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life;
- Practical jokes of a sexual nature which cause awkwardness or embarrassment;

- Displaying and/or distributing pornographic pictures or other offensive material of a sexual nature, including audio or visual images of an individual through technological devices, equipment and services provided by Humber or other service providers; Unnecessary physical contact such as touching, patting or pinching;
- Expressions of gender bias which may include remarks that are discriminatory, degrading or derogatory and create a poisoned work environment;
- Requests for sexual favours; and/or
- Sexual assault

Please note that the behaviours and actions described above are not an exhaustive list of examples of sexual harassment.

Consent: Consent is the voluntary and explicit and ongoing agreement to engage in the sexual activity in question that starts with a yes and it can still be a no later. 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 imperative that those dealing with issues of sexual assault and sexual violence understand the following related to the issue of consent:

Consent & the Criminal Code of Canada: For survivors seeking legal redress, it is important to know that the *Criminal Code of Canada* uses the following definition of “consent”:

Consent: Consent is 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 individual is incapable of consenting to the activity due to incapacitation;
- c) the accused induces the individual to engage in the activity by abusing a position of trust, power or authority;
- d) the individual expresses, by words or conduct, a lack of agreement to engage in the activity; or
- e) the individual, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

Considerations related to consent:

- should never be assumed or implied
- is not silence or the absence of “no”
- cannot be given when someone is incapable of consenting (by virtue of intoxication, being asleep or being unconscious, for example)
- can never be obtained through threats or coercion
- can be withdrawn at any time
- cannot be given if the perpetrator abuses a position of trust, power or authority
- cannot be given by anyone other than the person participating in the sexual activity

It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement.

Acquaintance sexual assault: Acquaintance sexual assault is a form of sexual violence that includes forced, manipulated, or coerced contact by a friend or acquaintance.

*Intimate partner sexual violence:* Intimate partner sexual violence is a form of sexual violence that includes sexual assault within an intimate relationship. It includes not only marital rape, but all other forms of sexual assault that take place within a current or former intimate relationship, whether the partners are married or not.

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

Note: Non-exploitative activity is defined as sexual activity that does not involve prostitution, trafficking or pornography, and where there is no relationship of power, authority or dependency between the persons involved.

*Coercion:* Coercion is the use of emotional manipulation, blackmail, or threats, or the promise of rewards or special treatment, to persuade someone to engage in sexual acts.

*Rape:* This policy uses the term sexual assault to align with the current language used in the *Criminal Code*. The term “sexual assault” provides a much broader definition and criminalizes unwanted behaviours, such as touching and kissing, as well as, unwanted oral sex and vaginal and anal intercourse. Although the term rape no longer has legal meaning in Canada, it is still commonly used.

*Stalking:* Stalking is a form of sexual violence prohibited by the *Criminal Code* of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear or threaten one’s safety or mental health. Stalking can also include threats of harm to one’s friends and/or family. These behaviours include non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; cyber-stalking; and uttering threats.

*Survivor:* Some persons who have experienced sexual assault and sexual violence may choose to identify as a survivor. Individuals may be more familiar with the term “victim”. Humber uses 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.

**Appendix B: Reporting Procedures: Sexual Assault and Sexual Violence Flowchart**
