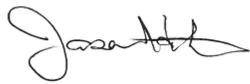


<b>Policy #</b>	TBD
<b>Approved by:</b>	Jason Hunter
<b>Approval Date:</b>	February 24, 2022
<b>Policy Holder Signature:</b>	
<b>Policy Holder:</b>	Vice President, Students & Institutional Planning
<b>Administrative Contact:</b>	Dean of Students
<b>Replaces Policy Dated:</b>	March 24, 2015
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### **Sexual Violence Policy**

#### **Purpose/Rationale:**

The Humber College Institute of Technology and Advanced Learning and the University of Guelph-Humber (hereafter referred to as “Humber” or “the College”) recognize an individual’s right to learn, work, and live in an environment of mutual respect and understanding that is free from sexual violence. Humber is committed to addressing sexual violence within the community through education, awareness, prevention, support, legislative monitoring, and compliance.

When an act of sexual violence becomes known to the College, in accordance with this policy and applicable procedures, Humber will respond with the aim of providing appropriate support and accommodations to all affected individuals. Individuals and groups who commit, or attempt to commit, acts of sexual violence will be subject to processes and outcomes as per this policy and the relevant procedure. The College has a process of investigation that protects the rights of the complainant(s), respondent(s), and witnesses.

#### **Scope:**

This Policy applies to all members of the Humber and University of Guelph-Humber community, including: students, employees, contractors, suppliers of services, individuals who are connected to any College initiatives, volunteers, and visitors. Visitors to any College campus will be subject to Complaints if they engage in prohibited conduct. The College will take appropriate actions and apply appropriate remedies (e.g. barring them from campus) if found responsible for acts of sexual violence. Such visitors may also be able to initiate a Complaint under this Policy.

The Policy includes coverage of incidences of sexual violence that occur both on and off campus, which affect Humber's learning, working, and/or living environments. This may include College-related functions, such as work-integrated learning, off-campus field trips, work- or academic-related travel, non-College-related functions such as social gatherings, as well as virtual environments within the Humber ecosystem, such as our Learning Management system (e.g. Blackboard) and virtual social-based environments involving the Humber community that may be outside Humber College's IT ecosystems (e.g. Facebook, Snapchat, Instagram, and TikTok).

The College will work with other academic institutions where students are cross-registered to facilitate the application of this policy and associated procedures.

This Policy is guided by the [Ontario Human Rights Code](#) (the "Code"), the [Occupational Health and Safety Act](#) ("OHS") and [Bill 132, Sexual Violence and Harassment Action Plan Act](#) as well as other legislation, policies, and collective agreements. Where multiple policies apply, those responsible for initiating the processes will confer to determine which process should be applied, which takes precedence, and whether engaging multiple procedures is warranted.

Procedures set out under this policy may be carried out prior to, simultaneously with, or following criminal arrest or civil/criminal proceedings at the discretion of the Department of Public Safety. The College is not bound by the outcome of any external proceedings.

### **Definitions:**

**Sexual Violence:** 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, sexual exploitation, stealing, degrading sexual imagery, distribution of sexual images or video of a community member without their consent, and cyber harassment or cyber stalking of a sexual nature.

Anyone regardless of race, age, disability, relationship status, gender identity, gender expression, or sexual orientation can experience and be affected by sexual violence.

**Sexual Assault:** any type of sexual contact without mutual consent. It can include unwanted kissing, fondling, oral or anal sex, intercourse or other forms of penetration, or any other unwanted sexual act. Sexual Assault falls under the broader definition of Sexual Violence but has been highlighted here for better understanding.

**Sexual Exploitation:** taking advantage of another person through non-consensual or abusive sexual control. This may include the digital or electronic broadcasting, distributing, recording and/or photographing of people involved in sexual acts without their consent.

**Sexual Harassment:** a form of unwanted remarks, behaviours, or communications of a sexually oriented nature; a course of unwanted comments or actions that promote gender-based violence; or behaviours or communications based on gender where the person responsible for the behaviour knows or ought to reasonably know that the behaviour is unwelcomed. Examples of these behaviours can include asking personal questions about one's sex life, persistent requests for a 'date', gender-based jokes, or unwelcomed remarks about someone's hair, body shape, or gender which are not of a sexual nature but are demeaning. Sexual Harassment falls under the broader definition of Sexual Violence but has been highlighted here for better understanding.

**Balance of Probabilities:** the standard is met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than 50% chance that the proposition is true. Simply stated as "more probable than not", this is the standard that must be met in order to demonstrate that there has been a contravention of this Policy.

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

**Community Member:** any individual affiliated with the College who is involved in the learning community or in providing a service that contributes to the operation of the College. Community members include, but are not limited to: students, faculty, staff, administration, contracted service providers, and guests.

**Complaint:** a report of an incident of sexual violence for the purpose of initiating an internal or external investigation/adjudication on or off campus. Complaints require the declaration of the particulars of the allegations for the purpose of procedural fairness (a fair process for resolving disputes).

**Complainant:** The person(s) who alleges a violation of a Humber Policy. Note: The use of "complainant" is the accepted terminology as per the Ontario Human Rights Commission.

**Consent:** the active, ongoing, informed, voluntary agreement to engage in physical contact or sexual activity. Consent cannot be given by someone who is incapacitated (such as by drugs or alcohol), unconscious, asleep, or otherwise lacks the capacity to understand or give consent. Consent can be revoked at any time and cannot be assumed nor implied. No consent is obtained where the respondent induces the

complainant to engage in activity by abusing a position of trust, power, or authority. The age of consent to sexual activity is **16 years**. In some cases, the age of consent is higher (for example, when there is a relationship of trust, authority, or dependency).

**Disclosure:** when someone who has experienced or witnessed sexual violence tells someone about their experience. Individuals who disclose can receive support without making a Complaint.

**Employee:** an individual who is in a working relationship with Humber (including student employees). An employee is assigned an employee identification number and may work part-time or full time, temporarily or ongoing, at either Humber College or the University of Guelph-Humber. Independent contractors are not employees.

**Human Trafficking:** human trafficking involves the recruitment, transportation, harbouring and/ or exercising control, direction, or influence over the movements of a person in order to exploit that person, typically through sexual exploitation or forced labour. It is often described as a modern form of slavery. Victims suffer physical or emotional abuse and often live and work in horrific conditions. They may also face fatal consequences if they attempt to escape. This crime represents a consistent and pervasive assault on the fundamental human rights of its victims.

**Indecent Exposure:** the exposure of the private or intimate parts of the body in a lewd or sexual manner in a public place when the perpetrator may be readily observed. Indecent exposure includes exhibitionism.

**Quid Pro Quo Sexual Harassment:** sexual harassment in which the satisfaction of sexual demands is made the condition of job benefits or continued employment or is used as the basis for employment decisions.

**Rape Culture:** a culture in which dominant ideas, social practices, media images, and societal institutions implicitly or explicitly condone sexual assault by normalizing or trivializing sexual violence and by blaming survivors for their own abuse.

**Respondent:** the person accused of sexual violence and whom the Complaint is made against. Use of this term does not imply pre-determination that the Respondent is responsible for a violation of this policy.

**Reprisal:** an action or threat that is intended as retaliation for filing a complaint under this or any Humber policy, or claiming/enforcing a right under the *Ontario Human Rights Code* and *Occupational Health and Safety Act*.

**Stalking:** behaviours that occur on more than one occasion and which collectively instill fear or threaten one's safety or mental health, such as threats of harm to an individual's friends and/or family, non-consensual communications (face-to-face,

phone, email, social media), surveillance; sending unsolicited gifts; and cyber-stalking.

**Student:** an individual assigned a student identification number, prospective or confirmed, taking part-time or full-time courses, at either Humber College or the University of Guelph-Humber. This includes individuals who are not enrolled in the current semester but have shown academic progress toward a credential and may be between periods/terms of actual enrollment. All other individuals will be treated as a community member or visitor to the College.

**Survivor:** an individual who has been subjected to sexual violence. People who have been subjected to sexual violence have the right to choose how they want to be referred. For the purposes of this policy, the term “survivor” is used. Should a “survivor” choose to file a report, they are referred to as the “Complainant” in the resolution procedure.

**Voyeurism:** the surreptitious observing of a person without their consent and in circumstances where they could reasonably expect privacy. Voyeurism may include direct observation, observation by mechanical or electronic means, or visual recordings.

## **Policy:**

### **1. Policy Statement**

Humber is committed to challenging and preventing all forms of sexual violence including, but not limited to, sexual assault, sexual harassment, and human trafficking. The College is committed to creating a safe learning, working, and living environment for everyone in the College community. This policy aims to encourage individuals who have been affected by or have witnessed incidents of sexual violence to make a report to the College and to connect with the various resources and supports available.

Humber recognizes that sexual violence can occur between individuals regardless of sex, sexual orientation, gender, gender identity, gender expression, or relationship status. The College also recognizes that each person’s experience will be affected by the factors above in addition to ancestry, race, ethnicity, language, ability, faith, age, and socio-economic status, and individuals who are affected may experience emotional, academic, employment, and/or other difficulties. Humber recognizes that sexual violence impacts people of all genders, but it does not impact everyone equally; sexual violence affects women, specifically Indigenous women, racialized women, trans women, and women with disabilities, at an overwhelming rate.

**Humber College is committed to:**

- 1.1. Assisting those who have been affected by sexual violence with choices, including information, resources, and supports, such as referrals to counselling and medical care, information about resolution pathways including legal options, and appropriate academic, employment, and other accommodations;
- 1.2. Ensuring those who disclose that they have been affected by sexual violence are treated with compassion, dignity, and respect and are supported throughout the process of disclosure, investigation, and institutional response;
- 1.3. Addressing harmful attitudes and behaviours that blame the person who has experienced and/or is affected by sexual violence;
- 1.4. Ensuring that College investigation procedures are available and are conducted by trained staff;
- 1.5. 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;
- 1.6. Ensuring coordination and confidential communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- 1.7. Engaging in education and prevention activities in the College community coordinated by the Committee on Preventing and Responding to Sexual Violence;
- 1.8. Providing information to the College community about Humber's sexual violence policies and procedures;
- 1.9. Reporting to the Ministry of Training, Colleges and Universities on the effectiveness of current programs and services to combat sexual violence on campus;
- 1.10. Monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies.

The College recognizes that individuals who experience sexual violence may be reluctant to come forward if they were under the influence of alcohol or drugs at the time of the alleged act of sexual violence. No person disclosing or filing an official complaint of sexual violence will be subject to disciplinary action by the College in relation to the use of drugs or alcohol, even if they were in violation of such policies during the incident that is the subject of the Disclosure or Complaint.

## **2. Education, Awareness & Training**

The Committee on Preventing and Responding to Sexual Violence will be responsible for ensuring the coordination of awareness, prevention, education, and training efforts. The committee is comprised of students, faculty, staff, and on/off campus stakeholders.

The committee will work with on- and off-campus partners to develop and provide ongoing education, including peer-to-peer student campaigns, training sessions, workshops, print, and online resources to the College community. The committee, and initiatives thereof, receive funding from the Dean of Students Office, the Department of Public Safety, the University of Guelph-Humber, and the students' association (IGNITE).

These initiatives will strive to empower the community to be proactive bystanders and include topics such as: creating a culture of consent, seeking supports, resources for survivors, steps for responding to disclosures using trauma-informed principles, sexual assault awareness, and understanding the complexities of violence and prevalence rates.

All employees are required to complete an online training course in relation to this policy. The Centre for Human Rights, Equity & Inclusion (the Centre) provides robust education and training for Humber employees. Training and information about the Policy is available on [the Centre's website](#) or by calling the Centre at 416-675-6622 ext. 4425.

Supports, resources, and information about this policy are available at: [www.humber.ca/sexualassault](http://www.humber.ca/sexualassault).

## **3. Disclosures and Incident Reporting of Sexual Assault and Sexual Violence**

- 3.1. All students and employees should expect that responses to disclosures of sexual violence will be non-judgmental, respectful, compassionate, and supportive.
- 3.2. Individuals who have experienced or been affected by sexual violence are encouraged to come forward to access ongoing support and accommodations, including the creation of a personal safety plan, and to discuss their choices for reporting to the College or external agencies, if desired. Individuals who disclose can receive support without making a Complaint.

Students are encouraged to connect with a Student Support & Intervention Coordinator at [SICsupport@humber.ca](mailto:SICsupport@humber.ca) / 416.675.6622, extension 2102 or the Department of Public Safety at 416-675-6622, extension 4000 (or extension 8500 non-emergency line). Students have the right to determine whether or not to access support services and decide which services they feel would be most beneficial. They are also welcome to bring a support person of their choice to meetings.

Employees are encouraged to access supports through the Employee Assistance Program. Please contact the Manager of Occupational Health & Safety or the Director, Centre for Human Rights, Equity, and Inclusion to discuss your options. Contact information may be found by visiting the Human Resources & Organizational Effectiveness website (<https://hrs.humber.ca/support/staff-directory.html>)

- 3.3. Students looking to initiate an internal investigation can report an incident of sexual violence and file a Complaint with the Department of Public Safety or the Office of Student Community Standards at [OSCS@humber.ca](mailto:OSCS@humber.ca) / 416-675-6622, extension 4357. Complaints require the declaration of the details of the allegations for the purpose of procedural fairness (a fair process for resolving disputes).

Employees and other members of the College community can report incidents of sexual violence to the Department of Public Safety, the Centre for Human Rights, Equity & Inclusion, their respective manager/supervisor, Human Resources Business Partner or Human Resources Client Services Manager, Occupational Health and Safety, Dean, or Associate Dean.

Reporting requirements for employees are outlined in the Sexual Violence Employee Procedure. Additionally, anyone who receives a complaint or is notified of an incident is expected to report this information to an Advisor at the Centre for Human Rights, Equity & Inclusion.

All individuals have the right to be kept informed in a timely manner about the processes they've engaged as a result of information they have provided, including the status and outcome of the investigation and whether early resolution and interim measures have been taken.

The College is committed to responding to complaints fairly and expeditiously. The College recognizes the difficulty of being involved in a Complaint process. Responses are guided by respect, fairness, and a commitment to provide procedural rights to all parties involved.

- 3.4. Members of the College community who are faculty, employees, and contractors have a duty to immediately report all incidents and suspected incidents of sexual violence to the Department of Public Safety and/or the Centre for Human Rights, Equity and Inclusion. 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.
- 3.5. 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, that occur on or off College property and 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. As such, the College may be required to act without the survivor's consent. In these circumstances, the College will inform individuals affected and provide support. Affected parties have the right to not participate in any investigation that may occur. If a Complainant or Respondent decides not to participate in an investigation, a decision can and will be made without their input.

#### **4. Complaint Process and Investigations**

##### **4.1. Complaint Investigation**

A complaint of sexual violence can be filed under this Policy by any member of the College.

The College has established procedures related to investigating and making decisions about formal Complaints. For further information regarding responsibilities for intake, investigation, and decision making, refer to the applicable procedure:

- Sexual Violence Procedure for Employees
- Sexual Violence Procedure for Students

Where a complaint of sexual violence has been reported to the College, the College will exercise care to protect and respect the rights of both the complainant and the respondent. Except as otherwise stated in this Policy or the relevant Procedure, 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.

Appropriate actions may be taken by the College to ensure the safety of the individuals involved in the complaint. No disciplinary action will be taken against a person or group without their knowledge and opportunity to respond pursuant to the applicable Procedure, where there is an alleged breach of this Policy.

In any case, the College may decide to use an external investigator when appropriate in the circumstances.

#### 4.2 Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process before a decision is rendered. They should communicate, in writing, their decision to withdraw their complaint to the identified Investigator. 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 or continue an 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 survivor can still seek supports should they elect to withdraw their complaint.

#### 4.3 Protection from Reprisals, Retaliation, or Threats

Pursuant to Humber's Human Rights Policy, all College community members have the right to express legitimate concerns about incidents of discrimination and harassment that they are experiencing in their education, work, or residence at Humber College without fear of reprisal.

The College will not tolerate any retaliation or reprisal through any means against anyone who discloses or reports an incident of sexual violence or participates in a related investigation.

Anyone engaged in such conduct may be subject to further disciplinary action under this Policy or other College Policies.

#### 4.4 Irrelevant Questioning

During the institution's investigative process, complainants acting in good faith who share their experience of sexual violence through disclosing, accessing support, and/or reporting to the College, will not be asked irrelevant questions from the institution's staff or investigators.

## 5. Confidentiality

Confidentiality is important to those who have disclosed or reported sexual violence. The confidentiality of all persons involved in a report of sexual violence will be strictly observed, and the College is committed to ensuring such an environment and culture exists. The College will make every reasonable effort to protect personal information and handle records in accordance with its policies and corresponding provincial privacy legislation.

There are circumstances where an employee may be required to disclose information within or outside of the College in order to address safety concerns or to satisfy legal reporting obligations such as when:

- an individual is at imminent risk of life-threatening self-harm;
- an individual is at imminent risk of harming another;
- there are reasonable grounds to believe that others in the College or wider community may be at risk of harm; and/or
- disclosure is required by law; for instance, a child under 16 is involved, or to comply with the Occupational Health and Safety Act.

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.

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 will keep all information confidential except as outlined in this policy and the accompanying procedures, whereby employees required to carry out authorized duties under this policy may conduct investigations, provide support, etc.

All parties to an investigation are expected to keep the details of the case and the fact of the investigation confidential, outside their circle of support, in order to ensure the integrity of the investigation and decision-making process.

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

## 6. Support and Representation

All parties are encouraged to bring a support person to meetings. Complainants and Respondents may attend meetings with a single (non-participating) support person who is not otherwise a witness in the matter. The College considers requests to attend meetings with additional support persons and with legal or

other representation on a case-by-case basis, with a view to promoting a fair and expeditious process.

Employees covered by a Collective Agreement are entitled to be accompanied by union representation at all meetings which take place pursuant to Humber's Human Rights Complaint Resolution Procedures Section 1.2 (d).

## **7. Interim Measures**

Should the Office of Student Community Standards or Human Resources, in conjunction with the Department of Public Safety, deem an individual's alleged conduct to pose an immediate, ongoing, or possible risk to a community member or the College, an official from these areas, acting within the scope of their position, may impose interim measures. Interim measures are taken in an effort to balance the safety and/or well-being of community members, including the respondent, and can include a ban from campus property, removal from on-campus housing, a registration hold on a student's account, leave of absence and/or other necessary restrictions prior to the completion of an investigation, including participation in a risk assessment interview. Interim measures are preliminary in nature and are generally in effect only until an investigation, and hearing (as applicable), has been completed. The introduction of interim measures does not imply that a complaint has been "substantiated".

Individuals affected by interim measures may request, in writing, a review of the interim measures at the following times:

- a) where there has been a change in the status of court conditions or criminal charges;
- b) following completion of a College-approved violence risk assessment, completed internally or externally;
- c) when the individual has additional or new information relevant to the decision to impose interim measures; or
- d) when the student, as a result of being on interim measures, risks losing their academic year.

Individuals requesting a review must submit a written request for review and include, at minimum, the following information:

- the interim measure to be reviewed;
- the alleged policy violation;
- the impact of the interim measure on the individual; and
- the reason, from the list above, for the review.

Student requests for review should be sent to [OSCS@humber.ca](mailto:OSCS@humber.ca) and reviews will be completed by the Co-Chairs of the Student Support & Intervention Team. Employee requests for review should be sent to the Vice President Human Resources & Organizational Effectiveness, or designate, as per the appeals process outlined in Section 1.5 of Humber's Human Rights Complaint Resolution Procedures.

## **8. Collection and Reporting of Sexual Violence Statistics**

In accordance with Bill 132, *Sexual Violence and Harassment Action Plan Act*, 2016, Postsecondary institutions in Ontario are required to report aggregate data to the *Ministry of Colleges and Universities* and a report to the Humber Board of Governors on the experiences of, and support for, students who have experienced sexual violence.

The Associate Director, Health and Counselling will maintain annual statistics on disclosed and reported incidents of sexual violence on campus for the purpose of community education and legislated requirements. This data would not include any information that would identify any individuals.

## **9. Policy Review**

This policy will be reviewed every three years with consultation from the Humber community and led by the Committee on Preventing and Responding to Sexual Violence.

### **References:**

[Colleges Ontario, Sexual Assault and Sexual Violence Policy and Protocol Template](#)

[Criminal Code of Canada](#)

[Department of Justice](#)

[Dispelling Myths and Misconceptions about Sexual Assault](#)

[Durham College](#)

[Freedom of Information and Protection of Privacy Act, 1990](#)

[Lakehead University](#)

[METRAC discussion paper on sexual assault policies on campuses](#)

[Merriam-Webster](#)

[Personal Health and Information Protection Act, 2004](#)

[Ryerson University](#)

[The Ontario Coalition of Rape Crisis Centres'](#)

[The Ontario Human Rights Code](#)

The Ontario Occupational Health and Safety Act – amendments to the definition of workplace violence and sexual harassment grounds

The Ontario Women's Directorate resource: "Developing a Response to Sexual Violence: A Resource Guide for Ontario's Colleges and Universities"

[University of Guelph](#)

[Wilfred Laurier University](#)

[University of Ottawa](#)

#### **Related Policies and Procedures:**

[Code of Student Community Standards](#)

[Code of Student Community Standards Investigation, Adjudication, Sanctions, and Appeal Procedure](#)

[Gender Diversity Policy](#)

[Human Rights Policy](#)

[Human Rights Complaint Resolution Procedures](#)

[Occupational Health and Safety Policy](#)

[Residence Code of Conduct](#)

Sexual Violence Procedure for Employees

Sexual Violence Procedure for Students

[Workplace Violence Prevention Policy & Procedure](#)