

Professional Driving Instructors of Ontario Sexual Assault and Sexual Violence Policy

Effective Date: July 31, 2018

This Policy applies to: All members of the college community including: executives, governors, administrators, faculty, staff, students, contractors, suppliers of services, individuals who are directly connected to any college initiatives, volunteers, and visitors.

1. Purpose and Intent

All members of the Professional Driving Instructors of Ontario 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.

2. Policy Statement

We are committed to reducing 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. No individual should feel uncomfortable about making a report in good faith about sexual violence that he or she has 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.

We are committed to:

2.1. assisting those who have experienced sexual violence by providing detailed information and support, including provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation;

2.2. 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;

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

2.4. 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;

2.5. engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with College policies and standards, and that ensure fairness and due process;

2.6. ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;

2.7. engaging in public education and prevention activities;

2.8. providing information to the College community about sexual violence on campus;

2.9. providing appropriate education and training to the College community about responding to the disclosure of sexual violence;

2.10. contributing to the creation of a campus atmosphere in which sexual violence is not tolerated;

and,

2.11. monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

3. Reporting and Responding to Sexual Violence

3.1. Members of the College community should immediately report incidents where they are subject to, witness or have knowledge of sexual violence, or have reason to believe that sexual violence has occurred or may occur.

3.2. 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.

3.3. 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. 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. It is intended that accused individuals be given reasonable notice, with full detail of the allegations and provided with an opportunity to answer to the allegations made against them.

4.1. Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However, the College may continue to act on the issue identified in the complaint in order to comply with its obligation under this Policy and/or its legal obligations.

4.2. Protection from Reprisals, Retaliation or Threats:

It is contrary to this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:

- having pursued rights under this Policy or the Ontario Human Rights Code;
- having participated or co-operated in an investigation under this Policy or the Ontario Human Rights Code; or
- having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.

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

4.3. Unsubstantiated 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 and no record of it will be placed in the complainant's or respondent's file. However, disclosures or complaints that are made to purposely annoy, embarrass or harm the respondent are considered frivolous, vexatious, or bad faith complaints and may result in sanctions against the complainant and/or discipline.

5. Confidentiality

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

However, confidentiality cannot be assured in the following circumstances:

- an individual is at imminent risk of self-harm;
- an individual is at imminent risk of harming another; and/or
- there are reasonable grounds to believe that others in the College or wider community may be at risk of harm.

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the victim would not be released to the public.

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

6. Defining 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 agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.

- A person is incapable of giving consent if she/he is asleep, unconscious or otherwise unable to communicate.

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

- A person who is drugged is unable to consent.

- A person is usually unable to give consent when she/he is under the influence of alcohol and/or drugs.

- A person may be unable to give consent if she/he has a mental disability.

- 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.

- A person can withdraw consent at any time during the course of a sexual encounter.

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

7. Protocol: If You Have Experienced Sexual Violence:

If you have experienced sexual violence, please call the Main Campus Office, and we will assist you by providing all the resources and support you need. If you want to speak to an alternate resource, please see below. It is often difficult to disclose and report incidents of sexual violence. It is entirely up to you if you choose to report the incident; however, we strongly encourage you to do so. A number of other resources are available to you, including:

- Kawartha Sexual Assault Centre: <http://www.kawarthasexualassaultcentre.com> Hotline: 1-866-298-7778
- YWCA Peterborough Haliburton: www.ywcapeterborough.org Hotline: 1-800-461-7656

Anyone who has experienced sexual violence has the right to:

- be treated with dignity 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 campus security and/or local police,
- have an on-campus investigation with the institution's full cooperation,
- have a safety plan, and
- have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s).

8. If You Would like to File a Formal Complaint

The campus director can also assist you with filing a complaint. If the alleged perpetrator is another member of the College community, you may file a complaint under this Policy.

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

More information on filing a complaint can be found under: Student Complaint Policy

9. What to Do if You Witnessed Sexual Violence

If you witness sexual violence, please call the Main Campus Office, and we will assist you by providing all the resources and necessary support.

If a member of faculty or staff of the College becomes aware of an allegation of sexual violence against another member of the College community, the faculty or staff is required to report the alleged incident to the Campus Director immediately.

10. What to Do if Someone Discloses Allegations of Sexual Violence

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

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

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

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

11. Communicating with Individuals who have Experienced Sexual Violence

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

- Ensure that designated staff members in the college who are knowledgeable about sexual violence, are responsible for advocacy on campus on behalf of staff, students or any other member of the College community who have experienced sexual violence;
- Ensure designated staff members respond in a prompt, compassionate, and personalized fashion; and
- Ensure that the victim is provided with reasonable updates about the status of the College's investigation of the incident when such investigations are undertaken.

12. Roles and Responsibilities of the College Community

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

- On-campus health supports to provide psychological and emotional support, assist with safety planning and make referrals to other services, including medical services;
- Faculty, staff and administrators to facilitate academic accommodations and other academic needs of those who have experience sexual violence;
- Student operated sexual violence services to provide peer supports;
- Human Resources to assist with any incidents relating to staff; and
- Security to assist with investigations and gathering evidence, to implement measures to reduce sexual violence on campus, and to collaborate with local police where appropriate.

13. How Will the College Respond to a Report of Sexual Violence?

Where a complaint of sexual violence has been reported to the College, the College will exercise care to protect and respect the rights of both the complainant and the respondent. The College understands that individuals who have been the victims of 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.

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

i. Where the Respondent is a Student

Sexual violence is a violation of Professional Driving Instructors of Ontario's policy. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences. Please see the Student Expulsion Policy Guide for more details on each disciplinary process.

ii. Where the Respondent is a member of Faculty or Staff

Sexual violence is a violation of Professional Driving Instructors of Ontario's policy. Allegations against faculty and staff will be addressed in accordance with the procedures set out in this Policy, and in any applicable collective agreement, and/or other College policies. If the complaint is sustained following an investigation, the College will decide on the appropriate disciplinary actions consistent with any applicable collective agreement and/or policies regarding discipline.

iii. Where the Respondent is not a Student, Faculty or Staff

Contractors, suppliers, volunteers or visitors who attend on campus will be subject to complaints if they engage in prohibited conduct. Where a complaint against the respondent is substantiated, the College will take appropriate action. All contractual relationships entered into by the College will be governed by a standard contract compliance clause stating that contractors must comply with this Policy

and the Ontario Human Rights Code, including co-operating in investigations. Breach of the clause may result in penalties, cancellation, or other sanctions.

iv. Multiple Proceedings

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