



SEXUAL VIOLENCE POLICY

ALPHA COLLEGE OF BUSINESS AND TECHNOLOGY

Policy Number: 2023-AC-001

REVISED ON: **JULY 16th, 2024**

APPROVED BY: **CHIEF EXECUTIVE OFFICER**

APPROVED ON: **JULY 16TH, 2024**

DATE OF NEXT REVIEW: **JULY 1ST, 2025**

Sexual Violence Policy

1. Definitions

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.

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.

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:

- 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 they are 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 under the influence of alcohol and/or drugs.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
- 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.
- 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 reports to that position.
- 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 nonprescription) 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/cyberstalking; 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.

Disclosure: Refers to any member of the College Community sharing information about an incident of Sexual Violence. Survivors are encouraged to disclose to Security, Student Services Manager or Human Resources Manager who will provide information on options following a Disclosure and coordinate supports, such as Academic Accommodations and Adjustments. A Disclosure does not automatically initiate a Formal Report for Investigation.

Complainant: An individual who has experienced Sexual Violence, has disclosed an experience of Sexual Violence, or identifies as a Survivor. A Complainant may be an individual who discloses for support or resources, and/or who may wish to initiate a Formal Report for investigation.

Respondent: A person who is alleged to have engaged in activities that violate this Policy and for whom an incident has been asserted against. The use of this term does not imply pre-determination that the Respondent is responsible for a violation of this Policy.

Formal Report: A Disclosure made by a Survivor that includes the explicit request to advance and initiate a formal investigation through the Security Manager, Student Services Manager or Human Resources Manager.

2. Purpose and Intent of the Policy

All members of Alpha 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. This policy is binding on all students, staff, faculty and contractors at Alpha College.

3. Policy Statement

Sexual violence is 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. We are 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;
- 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;



For Students:

Security Manager:

Joel Rampersad - j.rampersad@slc-alpha.ca

Student Services Manager:

Mark Carinan - m.carinan@slc-alpha.ca

Student Counselors:

Prakash Parajuli - p.parajuli@slc-alpha.ca

Christina Joy - c.joy@slc-alpha.ca

For Staff:

Security Manager:

Joel Rampersad - j.rampersad@slc-alpha.ca

Human Resources Manager:

Alec Chow - a.chow@slc-alpha.ca

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. Staff and Faculty 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. Students who have experienced sexual violence are encouraged to come forward to report to Security as soon as they are able to do so, however disclosure is voluntary.

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. 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 College's Student Code of Conduct relating to drug or alcohol use at the time the alleged sexual violence occurred;

4.5. 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.

4.6. Students are not required to report an incident of or make a complaint about sexual violence in order to obtain supports and services.

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.

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:

- 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.
- On-campus health supports to provide psychological and emotional support, assist with safety planning and make referrals to other services, including medical services;
- Employees to facilitate academic accommodations and other needs of those who have been affected by or who have experienced sexual violence, e.g. extensions on assignments, continuing studies from home, and withdrawal from courses;
- Human Resources & Organizational Development, for incidents relating to employees, assist with workplace accommodations or referrals to Employee and Family Assistance Program.

5.1. Investigation Procedure



Campus Security is responsible for taking the initial complaint under this policy. It will be the role of the Campus Security staff to ensure the immediate safety of the complainant and then complete a full incident report, which is directed to the Security Supervisor and to the Student Services Manager.

The Student Services Manager (for student complaints) or the HR Director (for employee complaints) is responsible for:

- Pre-Investigation Assessment
- Intake meeting with complainant
- Assist complainant in the preparation of formal statement of complaint

The Security Supervisor, or their internal or external designate, is responsible for:

- Administrative Investigation, including:
 - Interviewing complainant
 - Notification of respondent of the allegations, in writing
 - Interviewing respondent
 - Interviewing witnesses
 - Evidence documentation/collection

Post Investigation Assessment - Preparing findings

- Findings will be based on a balance of probabilities
- Preparing a written report. The report will include:
 1. a finding on each allegation in the complaint;
 2. sufficient detail to outline the rationale for the finding(s);
 3. as appropriate, recommendations on actions or sanctions relating to the issues in the complaint or conflict resolution issues. Depending on the severity of the offense, sanctions could include mandatory education/training, recording of the incident on student/employee files, suspension or termination.
- Presentation of report to a Student Services official where the respondent is a student, or to a Human Resources official, where the respondent is an employee.

The Official receiving the report is responsible for:

- Ensuring that the complainant and respondent receive a written summary of the investigator's report including the outcome of the investigation of the complaint and steps to be taken by the College arising from the complaint. Witnesses will not be identified to either the complainant or respondent. The information in the investigator's report is confidential and will only be disclosed in accordance with College privacy policies and the Freedom of Information and Protection of Privacy Act.

5.2. 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.

5.3. 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.

5.4. Appeal

Should the Complainant or Respondent not agree with the decision he or she may appeal the decision by addressing a letter to the Student Services Manager (students) or HR Manager (employees) within 10 days advising of the person's intent to appeal the decision.

5.5. 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:

- 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 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.

7. Limits on Confidentiality

In compliance with the recently passed *Strengthening Postsecondary Institutions and Students Act, 2022* we have strengthened our policy to address instances of faculty or staff sexual misconduct toward students.

- Specifically, sexual misconduct towards a student will be deemed to be just cause for dismissal and we are prevented by the Act from rehiring an employee found to have committed sexual misconduct towards a student;
- The use of non-disclosure agreements in situations where a student brings forward an allegation of sexual misconduct by an employee, is not permitted under the Act unless the non-disclosure agreement is requested by the student; and,
- As outlined above, 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 reports to that position. The disciplinary action for breach of these terms is termination of employment.

8. Sexual Misconduct by Employees in Relation to Students

8.1. Definition of Sexual Misconduct:

- (a) Physical sexual relations with the student, touching of a sexual nature of the student or behaviour or remarks of a sexual nature toward the student by an employee of the career college where,
 - (i) the act constitutes an offence under the *Criminal Code* (Canada),



(ii) the act infringes the right of the student under clause 7 (3) (a) of the *Human Rights Code* to be free from a sexual solicitation or advance, or

(iii) the act constitutes sexual misconduct as defined in the career college's employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the career college respecting sexual relations between employees and students, or

(b) any conduct by an employee of the career college that infringes the right of the student under clause 7 (3) (b) of the *Human Rights Code* to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance. ("inconduite sexuelle") 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.¹

8.2. Disciplinary Sanctions for Employees that Commit Sexual Misconduct against Students

- (a) As specified in our main policy, a student is incapable of giving consent to a person in a position of trust, power or authority which includes college employees.
- (b) Sexual misconduct towards a student is just cause for dismissal; breach of these terms will result in termination of employment.
- (c) The offending employee is not entitled to notice, termination pay or any other compensation as a result of dismissal.
- (d) This policy supersedes any prior employee contracts designating a different penalty for the infraction.
- (e) The College shall not re-employ any employee discharged for sexual misconduct toward a student. If the College finds that it has re-employed an employee contrary to this section, the employee shall be discharged.
- (f) Following the *Strengthening of Postsecondary Institutions and Students Act, 2022*, the College prohibits the use of non-disclosure agreements in cases of employee sexual misconduct towards a student unless the non-disclosure agreement is requested by the student if the following conditions are met:
 - i) The student has had an opportunity to consult with legal counsel;

¹ <https://www.ontario.ca/laws/statute/05p28#BK39>



- ii) There have been no undue attempts to influence the student;
 - iii) The agreement includes the opportunity for the student to waive their own confidentiality in the future;
 - iv) The agreement is of a set and limited duration.²
- (g) Any non-disclosure agreements between the College and employees discharged for sexual misconduct towards a student that were entered into on or after the date the *Strengthening of Postsecondary Institutions and Students Act, 2022* came into force are considered null and void.

Reviewed and Revised: July 16th, 2024

² Ibid.



Appendix A: External Support Resources

Assaulted Women's Helpline (English)

Toll Free: 1-866-863-0511 #SAFE (#7233) on Bell, Rogers, Fido, or Telus mobile

TTY: 416-364-8762

www.awhl.org

Durham Region Durham Rape Crisis Centre

Crisis: 905-668-9200

Office: 905-444-9672

info@drcc.ca

www.drcc.ca

Peel Region Hope 24/7 (formerly the Sexual Assault/Rape Crisis Centre of Peel)

Crisis: 1-800-810-0180

Office: 905-792-0821

<http://hope247.ca>

Toronto Rape Crisis Centre: Multicultural Women Against Rape

Crisis: 416-597-8808

Office: 416-597-1171

info@trccmwar.ca

crisis@trccmwar.ca

www.trccmwar.ca