

SEXUAL ASSAULT AND SEXUAL VIOLENCE PROCEDURE

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INTRODUCTION:

This procedure aligns with the sexual assault and sexual violence procedure developed by colleges across Ontario and has been adapted to coordinate effectively with Conestoga College's policies and procedures.

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

DEFINITIONS:

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.

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 they have 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.
- A person is incapable of giving consent to a person in a position of trust, power or authority.
- It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement.

Note: For information purposes only, the *Criminal Code* defines “consent” as follows: 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
- e) The complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

Other Relevant Terms:

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

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

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

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

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

Survivor: Some who have experienced sexual violence may choose to identify as survivors. 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 survived something and have not been victimized by it. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

PROCEDURE:

1. If You Have Experienced or Been Affected by Sexual Violence

If this is an emergency situation call 911.

1.1 Off Campus Procedure:

Go to a Safe Place

If you live in residence, go to a trusted friend or your Resident Assistant.

If you don't live in residence or are not a student, go to a trusted friend or relative if you feel physically or emotionally unsafe.

Get Medical Attention as Needed

Go to your local hospital emergency department.

Seek out Support and Counselling: For immediate support by telephone, contact:

Good2Talk 24 hours/day – 7 days/week, a free professional and anonymous support for students in Ontario. Good2Talk Post-Secondary Student Helpline: 1-866-925-5454

Get Advice on Available Options for Reporting

See Campus Process below.

1.2 On Campus Procedure:

If You Have Experienced Sexual Violence:

For immediate support by telephone, contact:

- **If you are a student and have experienced or have been affected by sexual violence and require support and accommodation:** contact Counselling Services 8:30 a.m. to 4:30 p.m. Monday to Friday at (519) 748-5220: Doon, ext.3360; Cambridge, ext. 4523; Waterloo, ext. 5224 and Guelph, ext. 6156. If you wish to speak to someone directly, please go to Security Services.
- **If you are an employee and have experienced or have been affected by sexual violence:** contact Human Resources 8:30 a.m. to 4:30 p.m. Monday to Friday at (519) 748-5220 ext. 3399 and we

will assist you by providing all the resources and support you need. If you want to speak to someone directly, please go to Security Services.

Outside of regular business hours, for immediate support by telephone, contact:

- [Good2Talk](#) 24 hours/day – 7 days/week, a free professional and anonymous support for students in Ontario. Good2Talk Post-Secondary Helpline: 1-866-925-5454

It is often difficult to disclose and report incidents of sexual violence. It is your choice whether or not to report the incident; however, we strongly encourage you to do so. A number of other resources, on and off campus are available to you, including:

- Counselling Services
- Human Resources
- Any Staff or Faculty Member
- Security Services

Information about these resources is available below, or you can use the following links to go directly to the resources:

- [Counselling Services](#)
- [Security Services](#)
- [Good2Talk](#)

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
- have an on-campus investigation where applicable, with the institution's full cooperation
- have a safety plan
- have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s)

2. If You Wish to File a Formal Complaint

Conestoga's Safety and Security Services and Counselling Services can assist you with filing a formal complaint. If the alleged perpetrator is another member of the College community, you may file a complaint under this policy with Human Resources.

Individuals who have experienced or have been affected by sexual violence may also wish to press charges under the *Criminal Code*. Security Services and Counselling Services can also assist you with contacting local police should you prefer not contacting the police directly.

Please note that you are not required to file a formal complaint to obtain supports, services or appropriate accommodation from the College.

More information on filing a complaint contact **Security Services ext. 3357**

3. What to Do if You Witness Sexual Violence

If you have witnessed sexual violence, call Security Services at: (519) 748-5220 ext. 3357
Faculty, staff, other employees and contractors have a duty to immediately report all incidents and suspected incidents of sexual violence. Students are strongly encouraged to report incidents of sexual violence, but do not need to report incidents of sexual violence to obtain supports, services or accommodation from the College.

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

- Counselling Services
- Human Resources
- Any Staff or Faculty Member
- Security Services

Information about these resources is available below; or you can use the link to go directly to the resources:

- [Counselling Services](#)
- [Security Services](#)
- [Good2Talk](#)

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

Those who have experienced sexual violence may choose to confide in another member of the College community, 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 Counselling Services at (519) 748-5220: Doon, ext.3360; Cambridge, ext. 4523; Waterloo, ext. 5224 and Guelph, ext. 6156.
- Recognizing that disclosing can be traumatic and that 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.
- Making every effort to respect confidentiality and anonymity.

5. Accommodations

If disclosure is made to a Conestoga employee by a student seeking support or academic accommodation, the employee should refer the student to the Counselling Services office and work with the Program Chair to ensure that the student receives all necessary academic and other accommodations. The Counselling Services office will liaise with appropriate campus partners to identify and support the most appropriate accommodations for the survivor. Accommodations may include, but not be limited to, extended time on assignments, changing classroom or work proximity of

the survivor and accused assailant, or implementing scheduling of service access times for the survivor to ensure the offender is not present. Employees who require accommodation as a result of sexual violence can make an appointment with the Human Resources office. Human Resources will liaise with the employee's supervisor to facilitate appropriate accommodations.

6. 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 Counselling Services department who are knowledgeable about sexual violence serve as on-campus advocates for students who have experienced sexual violence.
- Ensure that employees can access designated support for suitable counselling through the College's Employee Assistance Program (EAP).
- Ensure designated staff members respond in a prompt, compassionate, and personalized fashion.
- Ensure that survivors of sexual assault are provided with reasonable updates regarding the status of the College's investigation of the incident when such investigations are undertaken.

7. 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 have specific responsibilities:

- On-campus health supports will 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 needs of those who have been affected by or who have experienced sexual violence, e.g. extensions on assignments, continuing studies from home, and dropping courses.
- Residence staff will facilitate safe living arrangements.
- Support services offer sexual violence prevention awareness training.
- Human Resources will assist with any incidents related to employees.
- Security Services will assist with investigations and gathering evidence, implement measures to reduce sexual violence on campus, and collaborate with local police where appropriate.

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

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.

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 experienced 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. A person who has experienced sexual violence may choose not to request an investigation and has the right to not participate in any investigations that may occur.

In certain circumstances, however 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.

If an entitlement set out below conflicts with something set out in another College policy, the entitlement set out below will prevail.

Investigations into reports of sexual violence at the College are conducted under the oversight of the Vice President, Finance and Corporate Services, with support from the College's Director of Security Services, Associate Vice-President, Student Affairs, or Vice-President Academic/Student Affairs and Human Resources, as appropriate.

8.1 Where the Respondent is a Student

Sexual violence is a violation of Conestoga College's Student Rights & Responsibilities Policy and Procedure. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences. Please see Student Rights & Responsibilities Policy and Procedure for more details on each disciplinary process.

8.2 Where the Respondent is a Conestoga employee

Sexual violence is a violation of the Workplace Violence policy. Allegations against employees 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 appropriate disciplinary actions consistent with any applicable collective agreement and/or policies regarding discipline.

8.3 Where the Respondent is not a Student or Employee

Contractors, suppliers, volunteers or visitors to any Conestoga 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 Ontario's *Human Rights Code*, including co-operating in investigations. Breach of the clause may result in penalties, cancellation, or other sanctions.

8.4 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.

8.5 Procedural Fairness

Except as otherwise stated in this procedure, the College provides those whose rights, privileges or interest 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 early on in its process to obtain a person's independent recollection of events.

8.6 Support and Representation

Complainants and respondents may attend meetings with a single (non-participating) support person. 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. The College may still question and expect direct answers from an individual who is represented.

8.7 Interim Measures

The rights and privileges of a respondent may be restricted by the College before it makes a final determination about the alleged misconduct. For example, a respondent may be moved from a complainant's residence, restricted from entering certain parts of campus and restricted from attending class.

Such "interim measures" will be imposed only as necessary to meet the needs of complainants and persons who report incidents of sexual violence. The College will also take steps to minimize the impact of interim measures on respondents.

Interim measures are not punishment and do not represent a finding of misconduct. The College may impose interim measures immediately, without a hearing. Respondents may ask the College to review a decision to impose interim measures, but only to address the impact of the imposed measure and the preference for other alternatives.

8.8 Outcomes

The College will determine, based on its investigation, what happened and whether it constitutes sexual violence or another form of misconduct. If the College finds there has been misconduct, it will determine the appropriate penalty. Students may face discipline, up to and including expulsion. Employees may face discipline, up to and including discharge. Contractors, suppliers, volunteers and visitors may face penalties, cancellation of contracts and other sanctions.

8.9 Written Decision

The College will inform the complainant and respondent of the results of its investigation in writing. The written decision summary will include a brief description of any corrective action that the College has taken or will take as a result of its investigation.

Other Resources and Supports Available to you:

On Campus Resources for Students:

- [Counselling Services, Conestoga College](#): 519-748-5220 Ext. 3360
- [Security Services, Conestoga College](#): 519-748-5220 Ext. 3357

On Campus Resources for Employees:

- [Human Resources, Conestoga College](#): 519-748-5220 Ext. 3399
- [Homewood Health](#): 1-800-265-8310

Off-Campus/ Community Resources:

- [Sexual Assault /Domestic Violence Treatment Centre](#): 519-749-6994 (St. Mary's Hospital or Cambridge Memorial Hospital)
- [Sexual Assault Support Centre of Waterloo Region](#) (24 HR Support Line): 519-741-8633
- [Community Justice Initiatives](#) (Revive/ Survivor Program): 519-744-6549
- [Carizon Family and Community Services](#): 519-743-6333
- [KW Counselling Services](#): 519-884-0000
- [Family Counselling Centre Of Cambridge and North Dumfries](#): 519-621-5090
- [Shalom Counselling Services](#): 519-886-9690
- [Waterloo Regional Police – Major Case Unit](#): 519-650-8500 Ext. 8674
- [Victim Services Unit \(Police Service\)](#): 519-743-7243
- [Good2Talk Post-Secondary Student Helpline](#): 1-866-925-5454
- [Guelph Crisis Line](#): 519-821-0140 OR 1-877-822-0140
- [Torchlight](#): 1 888 821 3760
- [Dufferin Sexual Assault Help Line](#): 519-942-1480 or 1-877-822-0140
- [Wellington Dufferin Guelph Public Health](#)
- [Guelph General Hospital](#): 519-824-1212 OR 911

REFERENCES:

- Student Rights & Responsibilities Policy and Procedure
- Employee Code of Conduct
- Workplace Harassment Prevention Policy
- Workplace Violence Prevention Policy

- Residence Sexual Assault Policy

REVISION LOG:

2015.03.18 Academic Coordinating Committee - Approved

2016.11.28 Board of Governors – Revisions Approved

2019.10.07 Board of Governors – Revisions Approved