

# Sexual Assault, Sexual Violence and Sexual Misconduct Policy

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## Purpose and Intent

All members of ComputeK College (the “College”) have a right to work and study in an environment that is free from any form of sexual violence. The Sexual Assault, Sexual Violence and Sexual Misconduct Policy (the “Policy”) sets out the way in which we address sexual violence. It ensures that those affected by sexual violence are believed and appropriately accommodated and ensures 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.

In the case of an incident involving sexual assault or sexual violence, please contact ComputeK College’s Human Resources Manager, Mahta Golzari at: [hr@computeK.edu](mailto:hr@computeK.edu); (647) 250-7218

## Scope

This Policy applies to: All members of the College including: all employees, Officers, Directors, students, contractors, suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors.

## Definitions

**Sexual violence:** Sexual violence means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. Sexual violence is about power and control, not about sexual desire.

**Sexual assault:** Sexual assault is a form of sexual violence and is a criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the person that it is done to and involves a range of behaviours from any unwanted touching to penetration.

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

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

- Any deliberate and unsolicited sexual comment, the use of overt sexual language, suggestion or physical contact that creates an uncomfortable learning/working environment for the recipient and is made by a person who knows or ought reasonably to know that such action is unwelcome;
- A sexual advance or solicitation made by a person to another, where the person making the advance or solicitation knows or ought reasonably to know that it is unwelcome;
- A reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal or threat is made by a person in a position to confer, grant or deny a benefit or advancement to the other person;
- Unwelcome remarks, jokes, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life;
- Practical jokes of a sexual nature which cause awkwardness or embarrassment;
- Display and/or distribution of pornographic pictures or other offensive material of a sexual nature, including audio or visual images of an individual through technological devices, equipment and services provided by Computek or other service providers;
- Unwanted and unnecessary physical contact such as touching, patting or pinching;
- Expressions of gender bias which may include remarks that are discriminatory, degrading or derogatory and create a poisoned work environment;
- Requests for sexual favours; and/or
- Sexual assault.

Sexual misconduct towards a student:

Sexual misconduct, as per Bill 26 means: physical sexual relations with a student, touching of a sexual nature of a student or behaviour or remarks of a sexual nature toward a student by an employee of the College.

Sexual misconduct can also include any conduct by an employee of Computek that infringes on the right of any 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.

If an employee of Computek commits an act of sexual misconduct against a student, the College may discharge or discipline the employee, and this will be deemed for just cause for

all purposes. The employee will no longer be entitled to notice of termination, termination pay, compensation, or restitution because of the discharge or disciplinary measure.

In addition, if an employee commits an act of sexual misconduct against a student, and the College discharges the employee for that act, or the employee resigns from their employment, the College shall not re-employ the employee.

Computek will not enter into an agreement that prohibits the College or any person related to the College from disclosing that an allegation or complaint has been made that an employee committed an act of sexual misconduct toward a student of the College.

#### Employee and student relationships

Computek strongly discourages any type of non-professional relationship (friendship, romantic, business) between current employees and students, either offsite or onsite, as these could potentially result in accusations of favoritism, abuse of authority and/or sexual misconduct. Such accusations could lead to investigations, suspension and/or loss of employment (current and/or future).

However, in extenuating circumstances, where such a relationship was to inadvertently develop, the employee must notify either the Director and/or Human Resources immediately, so that we may offer options.

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

Consent: Consent is the voluntary agreement of an individual to engage in the sexual activity in question. No consent is obtained, where:

- the agreement is expressed by the words or conduct of a person other than the individual;
- the individual is incapable of consenting to the activity;
- the accused induces the individual to engage in the activity by abusing a position of trust, power or authority;
- the individual expresses, by words or conduct, a lack of agreement to engage in the activity; or
- the individual, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

Considerations related to consent:

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

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

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

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

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

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

**Survivor:** Some persons who have experienced sexual assault and sexual violence may choose to identify as a survivor. Individuals may be more familiar with the term "victim". The College uses the term "survivor" throughout this Policy where relevant because some who have experienced sexual assault believe they have overcome the violent experience and do

not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

## Policy

### 1.0 Policy Statement

All forms of sexual violence are unacceptable and will not be tolerated at Computek College. The College is committed to challenging and preventing sexual assault and sexual violence. 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 witnessed incidents of sexual assault and sexual violence to make a report to the College.

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.

Computek College recognizes 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. The College also recognizes that individuals who have experienced sexual violence may experience emotional, academic or other difficulties.

#### Computek College is committed to:

1.1 assisting those who have been affected by sexual assault and sexual violence by providing choices, including detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic, employment and other accommodation;

1.2 ensuring those who disclose that they have been sexually assaulted are treated with 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 assault and sexual violence;

1.4 treating individuals who disclose sexual assault and sexual violence with compassion, recognizing that their sense of control over their physical and sexual integrity is compromised through no fault of their own;

1.5 ensuring that on-campus internal investigation procedures are available in the case of sexual assault and sexual violence;

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

1.7 enabling the creation of a campus environment in which sexual assault and sexual violence is not tolerated; and

1.8 monitoring and updating our policies and procedures to ensure that they remain effective and in line with other existing policies.

## 2. Disclosures and Incident Reporting of Sexual Assault and Sexual Violence

2.1 Responses to disclosures of sexual assault and sexual violence will be non-judgemental supportive, empathetic and with unconditional regard and respect.

2.2 Individuals who have experienced or have been affected by sexual assault and sexual violence are encouraged to come forward to report as soon as they are able to do so and to the avenue that they feel most comfortable to report.

Students can report incidents of sexual assault and sexual violence to Human Resources.

2.3 Members of the College community who are faculty, employees and contractors have a duty to immediately report all incidents and suspected incidents of sexual assault and sexual violence.

2.4 Students are strongly encouraged to report incidents of sexual assault and sexual violence, but do not need to report such incidents to obtain supports, services or accommodation from the College.

Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual assault and sexual violence from occurring.

## 3. Complaint Process and Investigations

### 3.1 Complaint Investigation

A complaint of sexual assault and 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 regarding the students and employees' sexual assault and sexual violence procedures refer to the applicable procedures.

Where a complaint of sexual assault or 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 has the right to withhold disclosure early on in its process to obtain a person's independent recollection of events.

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 where there is an alleged breach of this Policy.

A report of sexual assault and sexual violence may also be referred to the police, or to other community resources at the complainant's request, where the persons involved are not members of the College community or otherwise where appropriate.

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

### 3.2 Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. The College understands that individuals who have experienced or been affected by sexual assault and sexual violence may wish to control if 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 assault and sexual violence may choose not to request an investigation and has the right not to participate in any investigation that may occur. In certain circumstances however, 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 internal investigation and/or inform the police of the need for a criminal investigation, even when the survivor has exercised their right to withdraw a complaint. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

### 4. Confidentiality

Confidentiality is important to those who have disclosed sexual assault and sexual violence. The confidentiality of all persons involved in a report of sexual assault and sexual violence will be strictly observed, and the College will restrict routine access to information to individuals with a need for such access and will respect the confidentiality of all persons, including the complainant, respondent, and witnesses.

However, confidentiality cannot be assured in the following circumstances:

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

In such circumstances, information would only be shared with necessary service areas/departments to prevent harm, and the name of the survivor would not be released to the public.

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

Where the College becomes aware of an allegation of sexual assault and sexual violence by a

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

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

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 policies relating to drug or alcohol use at the time the alleged sexual violence occurred.

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 College's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.

#### 5. 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.

#### 6. Outcomes

The College will determine, based on its investigation and hearing as appropriate, what happened and whether it constitutes sexual assault and sexual violence. 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 penalties, cancellation of contracts and other sanctions. The College may also impose non-punitive measures.

The College will inform the complainant and respondent of the results of its investigation as per the applicable procedure.

#### 7. Collection and Reporting of Sexual Assault and Sexual Violence Statistics

In accordance with the Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment) 2016, postsecondary institutions in Ontario are required to report aggregate data on sexual violence to the Superintendent of Colleges at the Ministry of Colleges and Universities.

#### 8. Review and Amendment

The review of the sexual violence policy will occur at least once every three years and





400 – 2425 Eglinton Avenue East, Toronto, Ontario M1K  
5G8 207 – 7 Eastvale Drive, Markham, Ontario  
L3S 4N8 HYPERLINK  
"mailto:info@computek.edu/"  
info@computek.edu | + 1 (416) 321-9911  
HYPERLINK "http://www.computek.edu/"  
www.computek.edu

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amended if necessary.

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[hr@computek.edu](mailto:hr@computek.edu); (647) 250-7218

Appendix I: Resources – Off Campus Support

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. You are not required to report an incident of, or make a complaint about, sexual violence to obtain supports, services, or accommodation.

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

Location	Resource	Telephone
Ontario	Good2Talk – Ontario Post-Secondary Student Helpline <a href="https://good2talk.ca/ontario/">https://good2talk.ca/ontario/</a>	1-866-925-5454 or 2-1-1; Available 24 hours a day
Toronto	Toronto Rape Crisis Centre <a href="https://trccmwar.ca/">https://trccmwar.ca/</a>	(416) 597-8808; Available 24 hours a day
York	Women’s Support Network of York Region <a href="https://womenssupportnetwork.ca/">https://womenssupportnetwork.ca/</a>	1-800-263-6734 (toll free) (905) 895-7313; Available 24 hours a day
Peel	Hope 24/7: Sexual Assault Centre of Peel <a href="https://www.hope247.ca/">https://www.hope247.ca/</a>	1-800-810-0180; Available 24 hours a day
Durham	Durham Rape Crisis Centre <a href="https://drcc.ca/">https://drcc.ca/</a>	(905) 668-9200; Available 24 hours a day
Toronto	The 519 Community Centre <a href="https://www.the519.org">https://www.the519.org</a>	(416) 392-6874; Weekdays: 10am to 5pm and Weekends: 10am to 4pm
Ontario	Assaulted Women's Helpline <a href="https://www.awhl.org">https://www.awhl.org</a>	1-866-863-0511; available 24 hours a day, in 200 languages

You can contact a Sexual Assault/Domestic Violence Treatment Centre.

Sexual Assault / Domestic Violence Treatment Centres in Ontario are hospital-based centres that provide 24/7 emergency care to individuals who have been sexually assaulted or who are victims or survivors of domestic violence (intimate partner) abuse. Services include:

- Emergency medical care
- Crisis intervention
- Collection of forensic evidence
- Access to emergency contraception and preventative treatment for sexually-transmitted infections
- Medical follow-up
- Counselling
- Referral to community resources.

You can choose to have centre staff conduct a physical examination, offer medical care and/or collect any physical (forensic) evidence of a recent sexual assault. It is your decision whether you wish to report the assault to the police or provide the forensic evidence. If you think you were drugged and sexually assaulted, Sexual Assault/Domestic Violence Treatment Centres can also test to determine the presence of drugs in your body.

To reach the Sexual Assault/Domestic Violence Treatment Centre in Ontario nearest you, contact:

Ontario Network of Sexual Assault/Domestic Violence Treatment Centres, 76 Grenville Street, Toronto, ON M5S 1B2, Tel. (416) 323-7327; <https://www.sadvtreatmentcentres.ca/>

Sexual Assault/Rape Crisis Centres - [www.sexualassaultsupport.ca](http://www.sexualassaultsupport.ca)

Sexual Assault/Rape Crisis Centres offer a wide variety of services to victims and survivors of sexual violence, 16 years and over. Services include a 24-hour anonymous crisis/support telephone line, individual and group counselling, court, police and hospital accompaniment, information on the legal system, and community referrals. Francophone services are available in designated areas.