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Sexual Assault, Sexual Violence, and Sexual Misconduct Policy

Section A: Purpose and Definitions

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, sexual assault, and sexual misconduct. The Sexual Assault, Sexual Violence and Sexual Misconduct Policy (the “Policy”) sets out the way in which we address these issues. It ensures that those affected by sexual violence, sexual assault and sexual misconduct are respectfully listened to 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 such acts 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; (647) 250-7218

Scope

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

Definitions

1. **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.
2. **Sexual misconduct:** 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 the College 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.

3. **Sexual assault:** Sexual assault is a form of sexual violence and is a criminal offence under the Criminal Code of Canada (Code). 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.
4. **Sexual harassment:** Sexual harassment is a form of sexual violence prohibited by the Ontario Human Rights 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



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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 the College 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;

5. **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

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- cannot be given by anyone other than the person participating in the sexual activity.

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.

- 6. 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.
- 7. 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.
- 8. 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.
- 9. Survivor:** Some persons who have experienced sexual assault, sexual violence, and sexual misconduct 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 and/or sexual violence and/or sexual misconduct 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.

Section B: Policy

1.0 Policy Statement

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

All reported incidents of sexual assault, sexual violence, and sexual misconduct 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 assault, sexual violence, and sexual misconduct that they have experienced or witnessed.

The College recognizes that sexual assault, sexual violence, and sexual misconduct 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

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experienced sexual assault, sexual violence, and sexual misconduct may experience emotional, academic or other difficulties.

The College is committed to:

- 1.1 Assisting and accommodating those who have been affected by sexual assault, sexual violence and sexual misconduct 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, sexual violence, sexual misconduct;
- 1.4 treating individuals who disclose sexual assault, sexual violence, and sexual misconduct 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, sexual violence, and sexual misconduct;
- 1.6 ensuring coordination and confidential communication among the various departments who are most likely to be involved in the response to sexual assault, sexual violence, and sexual misconduct on campus;
- 1.7 enabling the creation of a campus environment in which sexual assault, sexual violence, and sexual misconduct 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.

2.0 Disclosures and Incident Reporting of Sexual Assault, Sexual Violence and Sexual Misconduct.

The College will be responsible to ensure that:

- 2.1 Responses to disclosures of sexual assault, sexual violence, and sexual misconduct will be non-judgmental, supportive, empathetic and with unconditional regard and respect.
- 2.2 Individuals who have experienced or have been affected by sexual assault, sexual violence, and sexual misconduct 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.
- 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, sexual violence, and sexual misconduct.
- 2.4 Students are strongly encouraged to report incidents of sexual assault, sexual violence, and sexual misconduct, but do not need to report such incidents to obtain supports, services or accommodation from the College.
- 2.5 Persons in a position of authority, including persons directing the activities of others, shall take immediate



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action to respond to or to prevent sexual assault, sexual violence, and sexual misconduct from occurring.

Section C: Procedures for Submitting a Complaint and Investigation

The following outlines the basic procedures and processes related to submitting a complaint and conducting an investigation:

1. Reporting the Incident and Investigations

An incident, which is either experienced and/or witnessed, can be reported by an employee or student to Human Resources and/or to any member of the Senior Management team, whomever they are most comfortable with. The Human Resources Manager, VP - Operations, and Chief Executive Officer will all be notified. The student will be given all their options on how to proceed including investigation, mediation, training, police, community resources etc. (Refer to Appendix I)

If students, in good faith, report an incident of, or make a complaint about, sexual assault, sexual violence, and sexual misconduct, 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 assault, sexual violence, and sexual misconduct occurred.

2. Initiation of Investigation

The investigation will proceed if the student wants to proceed and/or if there is sufficient enough reason to believe that the alleged sexual assault and/or sexual violence and/or sexual misconduct may have occurred and/or the accused refutes the allegation. 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.

If the student proceeds with investigation, the Chief Executive Officer will delegate someone (or team), impartial and experienced to investigate. The investigation team will not be part of the decision-making process.

The student and the person accused (student or employee) will be given advice on the process in advance and the opportunity to have a witness present at every stage of the process.

3. 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.



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4. Confidentiality

Confidentiality is important to those who have disclosed sexual assault, sexual violence, and sexual misconduct. The confidentiality of all persons involved in a report of sexual assault, sexual violence, and sexual misconduct 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.

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.

5. Right to Withdraw

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.

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, sexual violence, and sexual misconduct 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, sexual violence, and sexual misconduct may choose not to request an investigation and has the right not to participate in any investigation that may occur.

6. Evidence Consideration

Evidence to be considered during an investigation will include material evidence and the testimony of all parties interviewed (respondents, accused, witnesses, etc.). Students who disclose their experience of sexual assault, sexual violence, and sexual misconduct through reporting an incident of, making a complaint about, or accessing supports and services for sexual assault, sexual violence, and sexual misconduct, 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.

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7. Final Report Submission

The investigating team will submit their Final Report to the CEO and both the student, and the person accused will receive a written summary document at the conclusion of the process.

8. Outcome

Based on the results of the investigation, if the College finds there has been sexual assault and/or sexual violence and/or sexual misconduct, it will determine the appropriate penalty. Appropriate measures can include student expulsion and discipline, termination of employment (including for just cause, meaning the employee will no longer be entitled to notice of termination, termination pay, compensation, or restitution because of the discharge or disciplinary measure), change in reporting structure, training, change in policy, etc. In addition, if the College discharges the employee for that act, or the employee resigns from their employment, the College shall not re-employ the employee. The College will not try to influence nor will 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 assault, sexual violence, and sexual misconduct toward a student at the College. No disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this Policy.

9. Appeal Process:

An appeal process will be made available including a different investigator to review the decision and/or investigation report and/or conduct an entirely new investigation.

Section D: Employee and student relationships

The College 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 VP, Operations 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.

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/assault/misconduct to the Superintendent of Colleges at the Ministry of Colleges and Universities.

The review of the sexual assault, sexual violence, and sexual misconduct policy will occur at least once every three years and amended if necessary. If our college's sexual assault, sexual violence, and sexual misconduct policy conflicts with its expulsion policy, the sexual assault, sexual violence, and sexual misconduct prevails.



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Appendix I: Resources – Off Campus Support

It is often difficult to disclose and report incidents of sexual violence/assault/misconduct. 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 assault, sexual violence, and sexual misconduct 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 https://good2talk.ca/ontario/	1-866-925-5454 or 2-1-1; Available 24 hours a day
Toronto	Toronto Rape Crisis Centre https://trccmwar.ca/	(416) 597-8808; Available 24 hours a day
York	Women's Support Network of York Region https://womenssupportnetwork.ca/	1-800-263-6734 (toll free) (905) 895-7313; Available 24 hours a day
Peel	Hope 24/7: Sexual Assault Centre of Peel https://www.hope247.ca/	1-800-810-0180; Available 24 hours a day
Durham	Durham Rape Crisis Centre https://drcc.ca/	(905) 668-9200; Available 24 hours a day
Toronto	The 519 Community Centre https://www.the519.org	(416) 392-6874; Weekdays: 10am to 5pm and Weekends: 10am to 4pm
Ontario	Assaulted Women's Helpline https://www.awhl.org	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

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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.sadvreatmentcentres.ca/>

Sexual Assault/Rape Crisis Centres - 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.